

Exhibit

B

Volume: I
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UNITED STATES DISTRICT COURT
 DISTRICT OF ARIZONA

Mark Biliack, M.D.,
 an individual,
 Plaintiff,

versus

The Paul Revere Life
 Insurance Company, a
 Massachusetts Corporation;
 Unum Group, a Delaware
 Corporation; Austin Jerome
 Philbin, M.D., an individual;
 Suzanne Benson, M.D., an
 Individual,
 Defendants.

Case No.
 2:16-cv-03631-DJH

*** Confidential ***

VIDEOTAPED DEPOSITION OF PAUL PETER
 December 7, 2018
 11:47 a.m.
 Beechwood Hotel, Renaissance Room
 363 Plantation Street
 Worcester, Massachusetts 01605

Court Reporter: Julie Thomson Riley, RDR, CRR

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1 APPEARANCES:

2 FOR THE PLAINTIFF:

3 Dawson & Rosenthal, P.C.

4 BY: Steven C. Dawson, Esquire

5 BY: Anita Rosenthal, Esquire

6 BY: Sander R. Dawson, Esquire

7 25 Schnebly Hill Road

8 Sedona, Arizona 86336-4233

9 (928) 282-3111

10 sdawson@dawsonandrosenthal.com

11 dandr@dawsonandrosenthal.com

12 sanderdawson@dawsonandrosenthal.com

13
14 - and -

15
16 Friedman Rubin, PLLP

17 BY: Jeffrey K. Rubin, Esquire

18 51 University Street, Suite 201

19 Seattle, Washington 98101

20 (206) 501-4446

21 jrubin@friedmanrubin.com

22
23
24 (continued)

1 APPEARANCES (continued):

2 FOR THE DEFENDANTS:

3 Sheppard Mullin Richter & Hampton, LLP

4 BY: Theona Zhordania, Esquire

5 333 South Hope Street, 43rd Floor

6 Los Angeles, California 90071-1442

7 (213) 617-5546

8 tzhordania@sheppardmullin.com

9
10 - and -

11
12 Unum Group

13 BY: Cesar R. Britos, AVP & Sr. Counsel

14 Law Department

15 2211 Congress Street-C475

16 Portland, Maine 04122

17 (207) 575-3307

18 cbritos@unum.com

19
20 Also Present:

21 Darryn Carroll, Videographer

22 Planet Depos

I N D E X

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Document entitled UnumProvident Manager Toolkit, 2005 Business Plan & BBS Communications, The Benefits Center, Bates Stamp Nos. August 3730 through August 3765 and Moffatt 411 through Moffatt 446.	50

(continued)

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No.		Page
Exhibit 2	E-mail string, Bates Stamp	
	No. Biliack-PRL-MS-EA-000049.	88
Exhibit 3	Document entitled Weekly	
	Tracking - Qtr View, as of	
	December 31, 2016, Bates	
	Stamp No. PRL-MS-BILIACK-WKLY	
	TRACKING-CONFIDENTIAL-000010.	135

***The original exhibits were returned to
Attorney Dawson.

AFTERNOON SESSION

11:47 a.m.

THE VIDEOGRAPHER: Here begins Disk No. 1
in the videotaped deposition of Paul Peter in the
matter of Biliack, M.D. versus the Paul Revere Life
Insurance Company, et al., in the United States
District Court, District of Arizona, Case
No. 2:16-cv-03631-DJH.

Today's date is December 7, 2018. The time
on the video monitor is 11:48 a.m. The videographer
today is Darryn Carroll, representing Planet Depos.
This video deposition is taking place at
363 Plantation Street, Worcester, Massachusetts.

Would counsel please voice identify
themselves and state whom they represent.

MR. DAWSON: On behalf of the plaintiff,
Steve Dawson, along with Anita Rosenthal, Jeff
Rubin, and Sander Dawson.

MS. ZHORDANIA: Theona --

MR. DAWSON: Bless you.

MS. ZHORDANIA: Thank you.

Theona Zhordania on behalf of the defendants

1 as well as the witness in connection with this
2 deposition.

3 MR. BRITOS: Cesar Britos for Unum.

4 THE VIDEOGRAPHER: Thank you.

5 The court reporter today is Julie Riley,
6 representing Flynn Reporting and Associates.

7 Would the court reporter please swear in
8 the witness.

9 * * *

10 PAUL PETER,
11 having been satisfactorily identified and duly sworn
12 by the Notary Public was examined and testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. DAWSON:

16 Q. Good morning.

17 A. Good morning.

18 Q. Would you state your full name, please.

19 A. Paul Steven Peter.

20 Q. Mr. Peter, what is your employment?

21 A. I'm a self-employed consultant.

22 Q. And what do you consult about?

23 A. Primarily as a subject matter expert for
24 disability income insurance.

1 Q. You consult in litigated matters?

2 A. Yes.

3 Q. You have been deposed before; correct?

4 A. Correct.

5 Q. Give me an idea about how many times.

6 A. Approximately 15.

7 Q. What about in the last two years, you've
8 been deposed how many times?

9 A. I believe it was just once about two years
10 ago.

11 Q. All right. Is there anything that you
12 believe would at all limit your ability to testify
13 completely and truthfully today?

14 A. Not that I can think of.

15 Q. All right. Or anything that you believe
16 would at all limit your willingness to testify
17 completely and truthfully today?

18 A. Not that I can think of.

19 Q. All right. I understand that
20 Ms. Zhordania, if I'm saying your name right, is
21 representing you today; correct?

22 A. Yes.

23 Q. And is Unum paying for that counsel?

24 A. Yes.

1 Q. All right. Have you expressly agreed to
2 waivers of any potential conflicts of interest?

3 A. I'm not sure.

4 Q. All right. Well, if you expressly had
5 agreed, then I suspect you would know.

6 A. I have not signed documents to that
7 effect, no.

8 Q. Okay. I'm going to ask about your
9 background to a certain extent. Before you went
10 to work in the insurance industry, what was your
11 educational background?

12 A. I have a bachelor's degree in economics.

13 Q. Okay. And what was your first job in the
14 insurance-related field?

15 A. My first job was as an assistant
16 underwriter for the Paul Revere Life Insurance
17 Company.

18 Q. So putting aside your consulting work now,
19 has all of your employment in the insurance industry
20 been in connection with a Unum-affiliated company?

21 A. Yes, Unum and predecessor companies.

22 Q. Okay. How many years did you work for
23 Unum and/or a predecessor company?

24 A. About 30.

1 Q. What year did you begin with them?

2 A. 1986.

3 Q. And you began in the underwriting department
4 apparently?

5 A. Yes.

6 Q. Okay. And how many years did you spend in
7 the underwriting department?

8 A. Approximately 20.

9 Q. So '86 til about 2006 --

10 A. Yes.

11 Q. -- correct?

12 And what was the highest level that you
13 ended up rising to in underwriting?

14 A. I was Assistant Vice President of
15 Underwriting.

16 Q. And approximately what year did you become
17 Assistant Vice President?

18 A. It's hard to remember for sure, but I'm
19 going to say approximately 1998.

20 Q. At the time that you began in 1986, would
21 it be accurate that Paul Revere was offering an IDI
22 own occupation, noncancellable disability product?

23 A. Yes.

24 Q. And while you were still in underwriting,

1 did Paul Revere stop offering that product?

2 A. Yes, I believe so.

3 Q. Around 1994, does that sound right?

4 A. I'm not sure. I think somewhere in the
5 1990s, but I can't be more specific.

6 Q. All right. In 2006, what was your change
7 in job position?

8 A. I moved from being Assistant Vice
9 President of Underwriting to an Assistant Vice
10 President in Claims.

11 Q. Okay. And as an Assistant Vice President
12 of Claims, what were your job duties?

13 A. I was responsible for managing a team of
14 several Claims Directors, who, in turn, had what
15 Unum calls DBSs, Disability Benefits Specialists
16 reporting to them.

17 Q. All right. And as a -- so you worked as
18 an Assistant Vice President in Claims from 1998
19 until what year?

20 A. No, I worked as an Assistant Vice
21 President in Claims from 2006.

22 Q. I'm sorry. 2006?

23 A. To 2016.

24 Q. And in 2016, how many Directors were

1 reporting to you?

2 A. Approximately six.

3 Q. And one of the Directors that reported to
4 you would have been Elysabeth Wetton; is that
5 correct?

6 A. Yes.

7 Q. And then there would be Joseph Sullivan?

8 A. Yes.

9 Q. Timothy Loftus?

10 A. Yes.

11 Q. Did you also have a QCC report to you?

12 A. I did.

13 Q. James Birch?

14 A. Yes.

15 Q. The Directors that reported to you, did
16 they all handle claims that would be considered to
17 be in active management?

18 A. Yes.

19 Q. Okay. And the Directors were assigned
20 claims -- well, let me back up.

21 At one point, there was a division in the
22 claims operation where units were divided based upon
23 impairment. Were you aware of that or familiar with
24 that?

1 A. Yes.

2 Q. Was that ever the case when you were in
3 the claims operation?

4 A. No.

5 Q. Okay. During your time in the claims
6 operation, how were the claim units divided up? On
7 what basis?

8 A. Geographically.

9 Q. And in the, say, 2015, 2016 time frame,
10 geographically what area of the country were you
11 overseeing?

12 A. My best recollection is that I had parts
13 of the Northeast and parts of the West Coast.

14 Q. Okay. We see mention in the Biliack file
15 a position known as a DMS. Can you tell me what
16 that is.

17 A. Sure. It stands for disability management
18 specialist.

19 Q. All right. And that's somebody who's sort
20 of being groomed to be a Director; would that be
21 fair to say?

22 A. Yes.

23 Q. All right. And you had a DMS that
24 reported to you as well; is that correct?

1 A. Yes.

2 Q. The Directors had about how many active
3 claims in his or her inventory, each Director?

4 A. I'd say approximately 250 to 300.

5 Q. All right. And then that would mean then
6 your overall responsibility would be a multiplier
7 of six, and somewhere from 1,500 to 1,800 active
8 claims?

9 A. Yes, I think that's a good approximation.

10 Q. All right. In 1996 -- let me back up
11 before that.

12 In 1986, when you went to work for Paul
13 Revere, at that time, Paul Revere and Provident Life
14 and Unum Life were separate, unrelated companies;
15 correct?

16 A. Correct.

17 Q. And they were competitors, in fact?

18 A. Yes.

19 Q. In I think the records show and let me ask
20 if it's consistent with your memory that in 1996,
21 Provident had announced in a press release that it
22 would be purchasing Paul Revere. Does that square
23 with your memory or time frame?

24 A. I think approximately, whether it was

1 announced as a purchase or a merger, I'm not sure,
2 but there was some type of joining of the two
3 companies.

4 Q. All right. And the joining then happened
5 in 1997; does that sound correct?

6 A. I believe so.

7 Q. All right. And with the joining of the
8 two companies, is it correct that the Paul Revere
9 employees became Provident employees?

10 A. Yes.

11 Q. So subsequent to this joining of the
12 companies your compensation would have come from
13 Provident; correct?

14 A. I think that's what my paycheck would have
15 said, yes.

16 Q. All right. And then there was a change a
17 few years after that where the Provident Companies
18 merged with Unum Life Insurance Company; correct?

19 A. Yes.

20 Q. And does it sound right that was around
21 1999?

22 A. It sounds about right, yes.

23 Q. All right. And at that point, the merged
24 entity was then called UnumProvident; correct?

1 A. Correct.

2 Q. And a couple of years after that,
3 UnumProvident, the name was changed to Unum Group;
4 is that correct?

5 A. Yes.

6 Q. Which is as it's known today?

7 A. Yes.

8 Q. All right. So your tenure in claims in
9 2006 began after these acquisitions and mergers,
10 however they're most accurately classified. It was
11 Unum Group at the point you began in claims; is that
12 correct?

13 A. I believe so, yes.

14 Q. Okay. Who did you initially report to
15 once you became AVP in Claims?

16 A. Maureen Griffin.

17 Q. And Ms. Griffin had become -- well, what
18 was her position?

19 A. At the time I began reporting to her, she
20 was a Vice President of Individual Disability
21 Claims.

22 Q. Okay. And she had assumed that role not
23 too long before you assumed the role of AVP in
24 Claims?

1 MS. ZHORDANIA: Calls for speculation.

2 Q. Do you know that? Are you aware of that?

3 A. I'm not sure how long before, but I think
4 it, you know, was probably, you know, less than a
5 year, maybe a few months.

6 Q. All right. The hierarchy of the Claims
7 Department -- and before I ask you that specific
8 question, we'll talk a little bit about terminology.

9 At Unum Group, the Claims Department is
10 also referred to as the Benefits Operation; is that
11 correct?

12 A. Yes.

13 Q. Sometimes the Benefits Center?

14 A. To some extent, I think that terminology
15 may have --

16 Q. Fallen off.

17 A. -- become less prevalent over time.

18 Q. Okay. So that I'm understanding, at
19 currently -- well, as of 2016, would it be accurate
20 that the claims operation at Unum was also referred
21 to as the Benefits Operation?

22 A. Yes.

23 Q. And going back to some extent in the past,
24 the claims operation might also be known as the

1 Benefits Center?

2 A. Yes.

3 Q. Okay. Now, we'll talk about the
4 hierarchy. What we would typically refer to as
5 claims adjusters, Unum referred to as DBSs; is that
6 correct?

7 A. Yes.

8 Q. And that stands for Disability Benefits
9 Specialist?

10 A. Yes.

11 Q. And DBSs report to the Directors?

12 A. Yes.

13 Q. And then the Directors, as we've kind of
14 touched on, report to your position, Assistant Vice
15 President; correct?

16 A. Yes.

17 Could I ask you to just speak up a little
18 bit. I'm having a little trouble hearing you.

19 Q. Yeah. Yeah.

20 A. Thank you.

21 Q. In 2016, how many Assistant Vice
22 Presidents in claims were there?

23 A. I would say either three or four.

24 Q. Who were the others at the time?

1 A. There was Holly Crawford, Anthony Scuderi,
2 and possibly Kim Davis. I'm not exactly sure when
3 she relocated from Worcester back to Chattanooga; so
4 that's why I said either three or four.

5 Q. All right.

6 A. It may have changed during 2016, as a
7 matter of fact.

8 Q. And the AVPs then would report to the Vice
9 President of Individual Disability; correct?

10 A. Yes.

11 Q. And were there two Vice Presidents of
12 Individual Disability as of 2016?

13 A. My recollection is that at the beginning
14 of 2016, there were two, and sometime during the
15 course of 2016, there was one.

16 Q. All right. One of the two was Ms. Griffin;
17 correct?

18 A. Yes.

19 Q. And was the other Scott Williams?

20 A. Yes.

21 Q. And who left before the other?

22 A. Mr. Williams left, I believe, at some point
23 during 2016.

24 Q. All right. And to your knowledge, did he

1 leave the company altogether?

2 A. No. My recollection is that he took a new
3 position with the company, not in claims.

4 Q. Okay. And is it your understanding that
5 he was not replaced?

6 A. Yes.

7 Q. In the 2015, '16 time frame, who did
8 Ms. Griffin report to?

9 MS. ZHORDANIA: To the extent it calls for
10 speculation.

11 A. To the best of my recollection, it was
12 Nancy McGee.

13 Q. And to your knowledge, Ms. McGee's
14 position or title was what?

15 A. I believe she was also a Vice President.

16 Q. But a Vice President occupying a higher
17 position than Ms. Griffin's Vice Presidency; would
18 that be fair to say?

19 MS. ZHORDANIA: Foundation.

20 A. I'm not sure of the different levels of
21 Vice President. My recollection is that they were
22 both Vice Presidents, whether -- and Ms. Griffin
23 reported to Ms. McGee. Whether they had different
24 job levels or within the company, I'm not sure. I

1 just know one reported to the other.

2 Q. All right. Do you know was Nancy McGee
3 the Vice President of -- strike that.

4 Yeah, Vice President of IDI and LTC,
5 long-term claims?

6 A. That sounds correct.

7 Q. All right. And to your knowledge, did
8 Ms. Griffin have any supervisory responsibility for
9 LTC?

10 A. Not as far as I can recall.

11 Q. All right. And had you also ever heard
12 Ms. McGee referred to as head of claims?

13 A. I can't say that I recall that, no.

14 Q. All right. And did Ms. McGee, to your
15 knowledge, report to Mr. Jack McGarry?

16 A. At one point, she did. I can't say if
17 that were the case in 2015 or 2016.

18 Q. All right. About the time you were
19 starting in claims, in 2006, were you aware that
20 Mr. McGarry took on the role of CEO of the closed
21 block?

22 A. I know that Mr. McGarry had that title at
23 one point, but I don't recall when.

24 Q. Okay. Do you recall that Mr. McGarry had

1 that title through much of your tenure in claims?

2 A. As far as I can recall, that sounds
3 correct.

4 Q. All right. Did you ever have management
5 meetings where Ms. McGee would be present?

6 A. Yes.

7 Q. And were those a regular, periodic
8 scheduled meeting?

9 A. I don't think there was any regularity in
10 terms of every month or every quarter, but it's
11 certainly accurate to say that there were meetings
12 that involved Ms. McGee periodically during my
13 tenure in claims.

14 Q. All right. Could you estimate on average
15 how many times a year you might attend a meeting
16 either in person or virtually where Ms. McGee would
17 be present?

18 A. I'm not --

19 MS. ZHORDANIA: Vague as to time.

20 A. I'm not sure that I can give an accurate
21 recollection of that, no.

22 Q. All right. Would it be accurate to say it
23 would be more than one time a year? It would be
24 multiple times?

1 MS. ZHORDANIA: To the extent it calls for
2 speculation.

3 Go ahead.

4 A. I think that's reasonable to say, yes.

5 Q. All right. And would there ever be times
6 where you would be present with claims management
7 where Mr. McGarry would be in attendance, either in
8 person or virtually?

9 A. Occasionally, yes.

10 Q. Somewhat less frequently than in meetings
11 with Ms. McGee though?

12 A. I think that's accurate.

13 Q. Going back to your time and your experience
14 in underwriting from 1986 to 2006, did you learn
15 that at some point during that span, let's say from
16 the 1986 time frame up into the 1990s, that
17 underwriting of IDI own occupation policies became
18 somewhat more stringent?

19 A. I think that's accurate.

20 Q. And we talked at the beginning about Paul
21 Revere stopping selling that product, which you said
22 you recall, but you didn't recall when, I believe.
23 Am I remembering that correctly?

24 A. Yes.

1 Q. Okay. And did you understand that they
2 stopped offering that product because it turned out
3 to not be financially successful?

4 MS. ZHORDANIA: Foundation.

5 A. My recollection is that it was determined
6 that the company chose not to offer that product any
7 more because the product had proven to be less
8 financially successful than originally forecast.

9 Q. Okay. Did you know from your work
10 beginning in the mid 1980s, that the disability
11 insurance market in the 1980s had become very
12 competitive?

13 MS. ZHORDANIA: Foundation.

14 A. I don't have a frame of reference prior to
15 my tenure, beginning in 1986, but I would say it's
16 accurate that during the '80s and part of the '90s
17 that it was a competitive industry.

18 Q. All right. There were more companies
19 offering own occupation disability products than you
20 would find today in the market, for example; is that
21 true?

22 A. I think so, yes.

23 Q. All right. And with the competition, the
24 individual disability own occupation products became

1 more liberal in their offerings, would you agree
2 with that?

3 MS. ZHORDANIA: Vague.

4 A. There was a period of time, again, sometime
5 in between the mid '80s and the mid '90s where I
6 would say that is correct.

7 Q. All right. And by more liberal, some of
8 the changes that were happening is, for example,
9 income replacement ratios increased; correct?

10 A. Yes.

11 Q. The benefit periods that were offered
12 increased over what they had been; is that correct?

13 A. I don't think I would agree with that, no.

14 Q. All right. Were there more offerings of
15 lifetime benefits than had been the case in the past,
16 to your knowledge?

17 A. Again, I would say that the offering of
18 lifetime benefits during my tenure, I don't recall
19 changing a lot. Again, we're talking 30 years ago;
20 so, it's hard to recall that, and again, I don't
21 have the frame of reference prior to 1986 to
22 compare.

23 Q. All right. Did you come to learn, however,
24 in your work in underwriting that the lifetime

1 benefit option was not as readily available, say, in
2 the years before you began in the business?

3 MS. ZHORDANIA: Foundation. Calls for
4 speculation.

5 A. I don't recall.

6 Q. Do you recall that it was later determined
7 that the policies were actually not -- they were
8 underpriced?

9 MS. ZHORDANIA: Foundation.

10 A. Again, similar to the own occupation
11 benefit, it was a situation where Paul Revere and
12 other companies, to the best of my knowledge,
13 determined that those provisions were not performing
14 to the extent that the companies had forecast that
15 they would.

16 Q. All right. One of the characteristics of
17 the policies, they were considered noncancellable,
18 guaranteed renewable; correct?

19 A. Some of the policies, yes.

20 Q. All right. Which meant premiums could not
21 be increased over the life of the policy?

22 A. Yes.

23 Q. All right. So -- and another thing that
24 happened is the claims experience on the policies

1 was greater than had originally been forecasted?

2 MS. ZHORDANIA: Vague as to time.

3 A. I think it's fair to say that in some
4 cases for some claims, the experience was not as
5 good as had been forecast.

6 Q. I'm not sure what you mean by in some
7 cases for some claims. Could you explain that.

8 A. Well, your question was fairly broad, and
9 I guess I'm trying to make the distinction that I'm
10 not saying all policies and all benefit provisions
11 did not perform up to the expectations that had been
12 forecast, but some of the policies and some of the
13 provisions would fall into that category.

14 Q. All right. I see the need for
15 clarification.

16 You're familiar with what became known as
17 the closed block; correct?

18 A. Yes.

19 Q. And how would you define in terms
20 of -- putting aside long-term care, what comprised
21 the closed block?

22 A. I would say that it was a block or group
23 of claims and policies that were no longer offered
24 by the company. To the best of my recollection,

1 there was no exact cut-off of time, but there was a
2 group of policies and a group of claims that, again,
3 the company no longer sold and were different than
4 the types of policies that the company was then
5 selling. So that group or block of claims became
6 known as the closed block in the sense that it was
7 closed to new sales, and there was a distinction
8 made between the closed block and more recently
9 issued business.

10 Q. All right. The closed block of policies
11 and claims was comprised of policies that had been
12 issued by several companies; is that correct?

13 A. Several companies that had a relationship
14 to Unum or predecessor companies, yes.

15 Q. All right. So, for example, there was
16 Paul Revere policies in that block, Provident
17 policies in that block, Unum policies in that block;
18 correct?

19 A. Yes.

20 Q. And then there were policies of companies
21 that Unum had somehow taken on the responsibility
22 for handling the claim for; correct?

23 I don't think I artfully worded that, but.

24 A. Yes, I would say that there were companies

1 that over a period of time decided that they did not
2 want to be in the individual disability business any
3 longer, and so arrangements were made for Unum and
4 predecessor companies to take over that business and
5 be responsible for the policy administration and
6 claims administration for those policies.

7 Q. All right. And this change in the
8 disability income insurance market had a relationship
9 to this competitive nature and the financial outcome,
10 as you were talking about, not being what had been
11 forecast; is that your understanding?

12 MS. ZHORDANIA: Compound. Vague.

13 A. Could you repeat that, please.

14 Q. Yeah. So companies -- for example, Paul
15 Revere took over the IDI claims for General American
16 Life Insurance Company. Are you aware of that?

17 A. Yes.

18 Q. All right. And General American was
19 interested in having someone - it turned out to be
20 Paul Revere - take over its IDI claims because
21 General American was having financial problems with
22 that block of business. Are you aware of that?

23 MS. ZHORDANIA: Foundation. Calls for
24 speculation.

1 A. I'm aware that Paul Revere took over the
2 block of General American claims, whether that was
3 due to financial problems that General American had
4 or simply a corporate decision by General American
5 to no longer be in that business, I'm not sure.

6 Q. All right. In any event, General American
7 elected to exit that business, and Paul Revere took
8 over the handling of their IDI claims; correct?

9 A. Yes.

10 Q. The same was true for Equitable; correct?

11 A. Yes.

12 Q. And I believe that Unum was handling
13 New York Life claims?

14 A. At least some of them, yes.

15 Q. And there were other companies as well?

16 A. Yes.

17 Q. So you might find these companies that had
18 originally issued the paper or the products as part
19 of the closed block of claims?

20 A. Yes.

21 Q. The common characteristics of those policies
22 even though they are from different companies
23 comprising the closed block -- first of all, is it
24 true that they were all own occupation disability

1 policies?

2 A. I don't believe that's true, no.

3 Q. All right. Tell me how that is incorrect.

4 A. To the best of my recollection, the closed
5 block encompassed, you know, policies that had been
6 issued from some period of time back. I think it's
7 fair to say that some of those policies contained an
8 own occupation benefit, and I believe some of them
9 did not.

10 Q. Do you believe it would be accurate to say
11 that the majority contained an own occupation
12 definition of disability?

13 MS. ZHORDANIA: Foundation. Calls for
14 speculation.

15 A. I don't know.

16 Q. Were a majority of the policies the
17 noncancellable guaranteed renewable variety?

18 A. I think that's likely to have been the
19 case, yes.

20 Q. And, again, meaning premiums could not be
21 raised on those policies; correct?

22 A. Correct.

23 Q. In the -- getting later into the 1980s,
24 and into the 1990s, did you become aware that Paul

1 Revere and Provident were looking at whether the
2 Claims Department could help lessen some of the
3 financial losses?

4 MS. ZHORDANIA: Vague. Foundation.

5 A. I'm not sure that I recall that.

6 Q. All right. Do you recall Provident
7 announcing that it was moving from a claim payment
8 to a claim management approach?

9 A. No.

10 MS. ZHORDANIA: Foundation.

11 Q. Were you aware that Paul Revere was
12 applying stronger claim management techniques to
13 these claims?

14 MS. ZHORDANIA: Foundation.

15 A. During -- I just want to make sure I
16 understand what time frame you're talking about.

17 Q. Fair enough.

18 Somehow I'm missing a folder. I'll come
19 back to this subject. I might have to run up over a
20 break and get a file.

21 Were you familiar with Steve Rutledge at
22 Paul Revere?

23 A. I knew Steve, yes.

24 Q. Okay. Did he work in the Claims or Benefits

1 Operation section at the time you were in
2 underwriting?

3 A. At least for part of the time, yes.

4 Q. When you moved -- transferred over to
5 claims, was Mr. Rutledge still with the company?

6 A. I don't know.

7 Q. Okay. Were you familiar with an article
8 that Mr. Rutledge had written for The International
9 Claims Association in 1995 entitled "You Really
10 Should Listen to your Claim Department"?

11 A. No.

12 Q. Mr. Rutledge used a, I guess, a sentence
13 in this article I'm wondering if you ever heard
14 mention, which was "The claim department didn't
15 cause the mudslide and probably could not have
16 prevented it, but in many cases, the claim
17 department has been asked to clean up the mess."

18 Did you ever hear a reference to that?

19 A. No.

20 Q. Did you come to learn that more resources
21 were being put into the Claims Department to better
22 manage the IDI claims?

23 MS. ZHORDANIA: Vague. Foundation.

24 A. I was aware that more resources were being

1 added to the Claims Department, but since I was not
2 in the Claims Department for part of that time, I am
3 not sure as to the reasons why.

4 Q. Okay. In terms of the increased resources,
5 it included, for example, increased medical
6 resources; correct?

7 A. I don't know.

8 Q. Are you aware of any of the increased
9 resources that the claims operation began adding in
10 the -- in terms of time reference more like in the
11 mid 1990s and on?

12 A. Other than a vague recollection that there
13 was hiring under way in that organization, I can't
14 be more specific as to what types of positions, and,
15 again, that predated my tenure in the claims
16 organization.

17 Q. I'm going to ask you about some terms
18 because I see what seems to me different words
19 referencing same meaning at different times, but
20 that's what I want to ask you.

21 If there -- if somebody's on claim and is
22 receiving payment, and if those -- the company
23 decides that the insured is no longer entitled to
24 benefits, they no longer meet the definition of

1 disability, would it be accurate -- would you
2 understand what one would mean to say that person's
3 claim has been terminated?

4 MS. ZHORDANIA: Vague.

5 A. That was not a term or a phrase that I was
6 particularly familiar with, but I understand what I
7 think was -- could be meant by that.

8 Q. All right. And terminated would be as
9 distinguished from somebody who's submitting a
10 claim, it's considered, and the claim is denied.
11 It's not accepted. Would you understand that it's a
12 denial and a termination?

13 A. It sounds as though you're making a
14 distinction between a situation where a claimant
15 received benefits for a period of time as compared
16 to a situation where a claim was submitted, a review
17 was completed, and it was determined that the
18 claimant did not qualify for benefits under the
19 terms of the policy.

20 Q. Correct. And you recognize the
21 distinction between a denial and a termination?

22 A. If what I've just articulated is what
23 you're asking, then, yes.

24 Q. All right. Are you familiar at one point

1 in the 1990s resolutions came to be sort of
2 synonymous with terminations?

3 MS. ZHORDANIA: Calls for speculation.

4 A. Again, that was before my tenure in
5 claims; so, I'm really not familiar with what
6 particular terms meant --

7 Q. All right.

8 A. -- at a time when I wasn't part of the
9 organization.

10 Q. When you were a part of the organization
11 of claims or once you were a part of the organization
12 of claims, there was a term "recoveries" being used;
13 is that correct?

14 A. Yes.

15 Q. And they sometimes reference unpaid
16 recoveries and paid recoveries; correct?

17 A. Yes.

18 Q. And what would unpaid and paid recoveries
19 be?

20 MS. ZHORDANIA: I just want to put an
21 objection on the record on behalf of the defendants
22 that this line of questioning is inappropriate of a
23 former employee whose testimony will not be admissible
24 against -- whose testimony will not be binding on

1 Unum Group, because he's not here testifying as a
2 Rule 30(b)(6) witness. So I just wanted to be put
3 counsel on notice that we would be moving to exclude
4 anything that has to do with Unum's general practices,
5 and I also believe that the line of questioning that
6 we've had is not relevant to the issues in the case,
7 with respect to this particular witness. So I just
8 wanted that on the record.

9 Go ahead.

10 A. Could you please repeat the question.

11 Q. Yeah. Could you explain what unpaid
12 recoveries and paid recoveries refers to.

13 A. Sure. To the best of my recollection, a
14 paid recovery represented a situation where a claim
15 had been paid, benefits had been paid for a period
16 of time under the terms of the policy, and it was
17 determined at some point that the claimant no longer
18 qualified for benefits, for whatever reason. When
19 that claim was closed, that was known as a paid
20 recovery.

21 An unpaid recovery was a situation where
22 a claim was submitted, and no benefits were paid
23 because it was determined that the insured did not
24 qualify for benefits under the terms of the policy,

1 and when that claim was closed, that would have been
2 referred to as an unpaid recovery.

3 Q. And let's go back to the first one, paid
4 recovery. Under that definition or explanation that
5 you gave, if a claim was closed and benefits were no
6 longer paid, the reserve that had been held on that
7 claim would be released or recovered; is that
8 correct?

9 MS. ZHORDANIA: Foundation.

10 A. I believe that's correct, yes.

11 Q. All right. In your experience for roughly
12 10 years in claims, would you agree that there are
13 some claims by their nature that occupy more of a
14 gray area?

15 MS. ZHORDANIA: Vague.

16 A. I would say that, you know, there was
17 a variety of levels of complexity of particular
18 claims depending on all of the circumstances. So
19 some were more clear cut than others, so, therefore,
20 some were more gray than others.

21 Q. All right. Claims that were more
22 subjective in nature, for example, psychiatric,
23 mental, nervous claims, would you agree that they
24 would tend to be -- occupy that gray area more often

1 than not?

2 MS. ZHORDANIA: Incomplete hypothetical.
3 Calls for speculation. Foundation.

4 A. I am not sure I would agree with that.

5 Q. Okay. Did you know Mr. Kinback?

6 A. I knew two Mr. Kinbacks. Could you
7 specify which one.

8 Q. I could if I recalled his first name.
9 Chris Kinback?

10 A. Yes. I knew who he was, yes.

11 Q. All right. He was at Paul Revere and was
12 with the company after Provident and Paul Revere
13 became one?

14 A. I know he was with Paul Revere. When he
15 left and what the company was called at that time, I
16 don't recall.

17 Q. Okay. Did you have any familiarity with a
18 memo that Mr. Kinback had written about psychiatric
19 claims occupying a gray area?

20 A. No.

21 Q. Okay. Another type of what might be
22 considered subjective claim would be claims of
23 disability based upon pain. Would you agree with
24 that?

1 A. You know, the term "subjective" is not
2 something that we typically used in the company, but
3 if you're speaking to the generic dictionary
4 definition of subjective, I would say that in some
5 cases, claims involving pain could be considered
6 more subjective than some other claims.

7 Q. All right. And I assume we're talking
8 about the same thing, but what I'm referring to is
9 complaints of pain, for example, are not readily
10 demonstrable by imaging studies, for example;
11 correct?

12 A. That's correct.

13 Q. Just as a psychiatric claim. I mean
14 someone claiming disabling depression you're not
15 going to get a clear definitive picture of that,
16 most likely?

17 MS. ZHORDANIA: Objection. Argumentative.
18 Calls for expert opinion.

19 Go ahead.

20 A. I would say that there's no definitive
21 test in the sense of an X-ray or imaging studies in
22 the case of a depression claim, no.

23 Q. It was recognized in the Benefits
24 Operation

1 that these types of claims offered a maybe a greater
2 chance for resolution of some type; is that correct?

3 MS. ZHORDANIA: Vague. And vague to time
4 as well.

5 A. When you say "these types of claims" could
6 you clarify.

7 Q. Yes, I'm talking about these subjective
8 natured claims, the examples of pain, psychiatric
9 claims?

10 A. And I'm sorry. Could you repeat what
11 about those questions -- claims is your question.

12 Q. Yes. Yes. It was recognized in the
13 claims operation that those types of claims offered
14 an opportunity to recognize a greater chance for a
15 resolution.

16 MS. ZHORDANIA: Objection. Vague.
17 Foundation.

18 A. I don't agree with that.

19 Q. By the time you had switched over to the
20 claim operation, did you learn that the company was
21 doing projections concerning the future number of
22 recoveries that they might expect?

23 MS. ZHORDANIA: Vague as to time.

24 A. At the time I joined the claims

1 organization, I was aware that there was an
2 analysis done of historical claim recovery rates or
3 percentages, and as is the case with many businesses,
4 that was a metric that was used to help forecast
5 what the likelihood of future claim recoveries would
6 be.

7 Q. What is your understanding as to when this
8 analysis had been done?

9 A. I don't have an understanding of when it
10 was done other than to say I thought it was an
11 ongoing analysis done by our finance and actuarial
12 teams, you know, again, on an ongoing basis.

13 Q. All right. Do you know at what point the
14 company began projecting how many recoveries they
15 expected they would have in the future?

16 A. No.

17 Q. You just know that was happening by the
18 time you began in the Claims Department; correct?

19 A. Yes.

20 Q. By the time you began in the Claims
21 Department, the company would have certain targets
22 and goals for claim recoveries or claim closures;
23 correct?

24 MS. ZHORDANIA: Foundation. Argumentative.

1 Go ahead.

2 A. I would not describe them as either
3 targets or goals. I would say that, again, based
4 on the historical performance of a large block of
5 claims, there was forecasting that was done to model
6 or predict the likely rate or percentage of claims
7 that would recover.

8 Q. All right. The forecasting that was done,
9 it would be accurate to say that the number of
10 claims forecasted to be closed or recovered would
11 become an expectation; is that true?

12 A. I would say that that was one metric,
13 among others, that was used as a way to assess the
14 performance of a given block of claims in comparison
15 to what the historical performance would predict for
16 the future.

17 Q. All right. I'm not sure your answer
18 matches up to my question. Let me try another
19 question.

20 The company would keep track of the actual
21 performance of the block of claims relative to the
22 expected performance; correct?

23 A. Yes.

24 Q. And at least in that regard, the number of

1 claims forecasted for recovery was the expected
2 number?

3 MS. ZHORDANIA: Misstates prior testimony.
4 Go ahead.

5 A. I wouldn't term it an expectation. Again,
6 I would term it as one metric that was used to
7 evaluate the block of claims against historical
8 performance.

9 Q. Regardless of whether there's one metric
10 or many, many, many, many metrics, I'm not really
11 asking you about that, and I'm not really certain of
12 what your response is right now.

13 Is it -- was it the case or not that Unum,
14 through its forecasting, would set out a number of
15 recoveries that were expected?

16 MS. ZHORDANIA: Asked and answered.

17 A. Again, I think what I'm a little bit hung
18 up on is the term "expected."

19 So, again, as is the case with many
20 businesses based on historical performance, there
21 are certain metrics that are used to predict how the
22 business will perform in the future, and over the
23 course of time, there's an evaluation done that
24 compares how the business is performing currently to

1 what those historical expectations are.

2 Q. All right. You talked about this was one
3 metric used to -- I forget your exact words, but to
4 gauge or measure how the block of business was
5 performing; is that generally correct?

6 A. Yes.

7 Q. Is it also accurate that that same metric
8 was used to measure how the individuals in the claim
9 operation were performing?

10 MS. ZHORDANIA: Object to the word
11 "individuals in the claim" as overbroad and vague.

12 Q. Let me restate it. It was a bit broad.
13 Would it be accurate that that same metric
14 was used to measure the performance, say, of DBSs
15 and Directors?

16 MS. ZHORDANIA: Compound.

17 A. It was accurate to say that that metric,
18 and we're talking about the recovery, the claim
19 recovery metric was one of several metrics, along
20 with various quality and service metrics, that were
21 used to evaluate the performance of Directors.

22 It would not be accurate to say that the
23 claim recovery metrics were used to evaluate the
24 performance of DBSs.

1 Q. Okay. So just to simplify then, it would
2 be accurate to say that the recovery expectation
3 would be one metric that was used to measure the
4 performance of -- performance evaluation of Directors;
5 correct?

6 MS. ZHORDANIA: Asked and answered.

7 A. Again, that was one metric, along with
8 quality and service metrics, that were used to
9 evaluate the performance of claim Directors.

10 Q. Okay. And in looking at that metric, what
11 would be -- what would be compared, again, would be
12 the actual recovery results versus the planned
13 recovery results; correct?

14 A. Yes.

15 Q. All right. Let me jump back to something
16 I asked before about what comprised the closed block
17 in terms of types of policies, and you said they
18 were not all own occupation defined disability
19 policies. There were some that were also considered
20 to be a modified own occupation definition; correct?

21 A. I believe so.

22 Q. And were there additional disability
23 policies comprising the closed block that were
24 anything other than own occupation or modified own

1 occupation?

2 A. I believe so, yes.

3 MS. ZHORDANIA: Calls for speculation.

4 Q. So were there policies comprising the
5 closed block that would be considered any occupation
6 definitions?

7 A. I believe so.

8 Q. Do you have any idea what percentage any
9 occupation definition policies would make up of the
10 closed block?

11 MS. ZHORDANIA: Calls for speculation.

12 A. I do not.

13 Q. Do you know that it would be a minority of
14 the policies?

15 A. I'm not sure.

16 Q. Well, in the claims that you oversaw --
17 well, let me back up.

18 The Directors that you were supervising,
19 were they managing claims in the closed block?

20 A. In part, yes.

21 Q. And they're managing claims in addition to
22 claims in the closed block?

23 A. Yes.

24 Q. The claims -- and what was the mix between

1 closed block versus not closed block?

2 MS. ZHORDANIA: Calls for speculation.
3 Foundation.

4 A. I don't know.

5 Q. And I'm not looking for something precise,
6 but I assume you have a general idea of what your
7 inventory was.

8 MS. ZHORDANIA: Argumentative. Asked and
9 answered.

10 A. There was a mix of claims between the
11 closed block and what was called the recently issued
12 block, but I really can't recall a percentage or
13 range that would be more specific.

14 Q. As an AVP, you were responsible for
15 assessing your Directors' inventory management, the
16 management of their claims inventory; is that
17 correct?

18 A. Yes.

19 Q. And you talk about metrics. Is it correct
20 that operational metrics would be used for that
21 purpose --

22 MS. ZHORDANIA: Vague.

23 Q. -- maybe among other things, but?

24 A. Yes.

1 Q. Okay. And operational metrics would
2 include the measure of actual recoveries to the
3 plan; correct?

4 A. That was one of many operational metrics
5 that I would use to assess the performance of
6 Directors.

7 Q. And this operational metric related to how
8 a given Director was doing in relation to their
9 recovery expectations; correct?

10 A. Could you repeat that, please.

11 Q. Yes. This particular operational metric
12 related to how a given Director was doing in
13 relation to his or her recovery expectations?

14 A. Yes.

15 Q. Now, in order to do that, you, of course,
16 needed to be aware of what the plan was in order to
17 measure what actually was happening against, fair to
18 say?

19 A. Yes.

20 Q. And you would learn that -- well, there
21 would be an overall corporate business plan that
22 would come out on an annual basis; correct?

23 MS. ZHORDANIA: Foundation.

24 A. Can you be more specific when you say -- I

1 mean there were certainly corporate business plans,
2 but I'm not sure I understand as it relates to this
3 what you're asking.

4 Q. Okay. By way of example --

5 MR. DAWSON: Can we mark that as one.

6 MS. ZHORDANIA: All right. I'm just going
7 to ask that the deposition be designated as
8 confidential since I'm looking at this. It looks
9 like a confidential document or I don't know if it
10 is.

11 MR. DAWSON: That's fine. It's --

12 MS. ZHORDANIA: We'll just designate --

13 MR. DAWSON: -- not, but we can sort that
14 out.

15 MS. ZHORDANIA: Yeah, let's just designate
16 the deposition as confidential, and then we can give
17 you more specific designations after we receive the
18 transcript.

19 (Document was marked Exhibit No. 1 for
20 identification.)

21 Q. Exhibit 1 is -- well, first of all,
22 there's a Bates -- two Bates numbers on it. The
23 first one is August 3730. Do you see that, the
24 bottom right corner?

1 A. Yes.

2 Q. Okay. And it indicates, "UnumProvident
3 Manager Toolkit, 2005 Business Plan and BBS
4 Communications," under that, "The Benefits Center";
5 correct?

6 A. Yes.

7 Q. All right. Now, 2005 predated your
8 joining -- becoming AVP of Claims by approximately a
9 year, if I understand the timeline correctly; right?

10 A. Yes.

11 Q. Did you ever have familiarity with
12 something called a Manager Toolkit?

13 A. I have familiarity with that term, yes.

14 Q. Okay. On August 3731 which is the next
15 page, you'll see a communication timeline. Have you
16 got that in front of you?

17 A. Yes.

18 Q. All right. And the far left column at
19 the top shows "Corporate Communication," and under
20 the description, it indicates the "Communication of
21 final Corporate and US Brokerage Scorecard goals and
22 measures."

23 Do you see that?

24 A. Yes.

1 Q. And were you familiar with the -- that it
2 would happen, I guess, is how I'll put it, that
3 essentially every year there would be a communication
4 of corporate scorecard goals and measures?

5 MS. ZHORDANIA: Objection. Vague.
6 Foundation.

7 A. I don't recall seeing this document or
8 even documents similar to it at a later time than
9 2005, but I would say it's accurate to say that the
10 company established certain goals or objectives for
11 the company relative to, let's say, sales growth and
12 premium, and I'm sure others, and that those were
13 communicated in some way to employees.

14 Q. All right. And according to Exhibit 1,
15 under the "Time Frame" this would be done, this
16 indicates "Post-Board Meeting." Is what you're
17 describing would those communications come out after
18 the board had met about it?

19 MS. ZHORDANIA: Objection. Argumentative.
20 Foundation.

21 The witness just said he hasn't seen this
22 document since 2005 or something to that effect; so,
23 I would object to this line of questioning.

24 Go ahead.

1 A. So, again, my recollection is that when
2 the Board of Directors for the company would meet,
3 I -- you know, they would meet, I believe, several
4 times a year. At some point either at the end of a
5 given year or the beginning of a subsequent year,
6 one of the outcomes of that board meeting would be,
7 you know, goals and objectives for the company to
8 hopefully accomplish during the coming year.

9 Q. All right. And you mentioned that
10 they -- and, again, I'm paraphrasing. I'm not
11 quoting. You understood the company would come out
12 with business plans for I forget the examples you
13 gave, in sales and things of that nature; correct?

14 MS. ZHORDANIA: Vague.

15 A. Yes.

16 Q. All right. They would do -- have similar
17 business plan for the Benefits Operation --

18 MS. ZHORDANIA: Foundation.

19 Q. -- correct?

20 A. My recollection is that there would be
21 corporate goals or objectives, and then in addition
22 to that, there would be goals and objectives for the
23 major functional areas in the company: underwriting,
24 claims, sales, and so forth that those respective

1 areas would strive to achieve over the coming year.

2 Q. All right. And the goals and objectives
3 for claims or the benefit operation would obviously
4 as an AVP of Claims be communicated to you; correct?

5 A. I believe that's accurate, yes.

6 Q. All right. And then also each month your
7 mention your manager, Ms. Griffin, that you reported
8 to, would give you the goal for the next month's
9 operation results for your section; correct?

10 A. Some of the objectives or expectations
11 would be provided by Ms. Griffin. Others would be
12 accessible to me in other ways.

13 Q. Okay. Ms. Griffin would provide you
14 with -- the goals and expectations that she would
15 provide you with were set forth in what was referred
16 to as a recovery plan; is that correct?

17 A. I believe so, yes.

18 Q. All right. And the recovery plan is as
19 its name denotes would be the plan for the
20 recoveries for that upcoming month; correct?

21 MS. ZHORDANIA: Misstates prior testimony.

22 A. The information that Ms. Griffin would
23 provide would identify, based on historical
24 performance of the block of claims under management,

1 what the likely expectations were for the coming
2 month for that block of claims.

3 Q. And including and specifically relative to
4 recoveries for that coming month; correct?

5 A. Yes.

6 Q. And you then would, in turn, communicate
7 to your Directors what the expectations were for
8 recoveries for their teams for that coming month;
9 correct?

10 A. Yes.

11 Q. Would you have any separate meeting or
12 discussion with the QCC who reported to you relative
13 to the recovery plan for the month?

14 A. Separate from what?

15 Q. Separate from the Directors?

16 A. I'm not sure. Typically, to the best of
17 my recollection, I would communicate the information
18 just to the Directors. I definitely recall that. I
19 don't really recall communicating it to the QCC,
20 because he or she were not managing a block of
21 claims. They were serving in a different function.

22 Q. In terms of where Ms. Griffin received the
23 information in the recovery plan, she would get
24 that, from your understanding, for each month from

1 the finance organization; correct?

2 MS. ZHORDANIA: Calls for speculation.
3 Foundation.

4 A. I'm not sure exactly where she would get
5 it from, but I -- to the best of my recollection, it
6 was from finance or actuarial or something along
7 those lines.

8 Q. Did you understand that the monthly recovery
9 plan that Ms. Griffin would you give to was a
10 derivative of the company-wide business plan?

11 MS. ZHORDANIA: Assumes facts not in
12 evidence. Foundation.

13 A. I'm not sure I would say it was derivative
14 of the company business plan. I would say it was
15 something that was given to me. What it might have
16 been part of, I'm not sure.

17 Q. I believe you said that you would -- you
18 would have access to, you'd be provided with the
19 annual business plan for the Benefits Operation;
20 correct?

21 MS. ZHORDANIA: Objection. Misstates
22 prior testimony.

23 A. I think I said I would be aware of or it
24 would be communicated to me what the main objectives

1 and goals of the benefits organization were for the
2 given year.

3 Q. All right. And the business plan for the
4 Benefits Operation for the year would include, among
5 I'm sure many other things, a plan regarding
6 recoveries; correct?

7 MS. ZHORDANIA: Asked and answered.

8 A. That was not something that I was provided
9 with. So when I stated that I had knowledge of or
10 had been provided with the plan, business plan for
11 the year for the benefits organization, typically, I
12 don't recall recovery expectations being part of
13 that business plan.

14 Q. The recovery plan that you were given by
15 Ms. Griffin every month, the expectations in that
16 plan would be given in the form of two numbers;
17 correct?

18 A. Yes.

19 Q. One, a count -- a total count of the claims
20 that were expected to recover for that month?

21 A. Yes.

22 Q. And the second was a dollar amount
23 representing what the release of reserve on a given
24 claim would be; correct?

1 A. Yes.

2 Well, I would just clarify it was a dollar
3 amount of an aggregate of claims not -- so the -- I
4 was provided with a count or a number of claims, and
5 then the aggregate reserve release that would be
6 associated with that count of claims.

7 Q. Well, didn't Ms. Griffin provide you with
8 an aggregate number for your organization as a whole
9 and also numbers for each of your Director teams?

10 A. Yes.

11 Q. And so assuming, if I'm understanding
12 this, then one could add up the numbers for each of
13 your Directors' team, and it should come out roughly
14 to that aggregate number?

15 A. Yes.

16 Q. And on average, the number in terms of the
17 recovery expectation for dollars of reserves for
18 each Director team, rather, each Director team would
19 be from one to \$2 million?

20 A. I think that's a reasonable estimate.

21 Q. All right. And that means the monthly
22 aggregate for your organization would, taking the
23 six Directors, would average somewhere from six to
24 \$12 million?

1 A. Yes.

2 Q. Another available tool for managing the
3 claim inventory was something called the change in
4 status fields; is that correct?

5 A. Yes.

6 Q. And that involved Directors could populate
7 online expected changes in the status of their
8 claims; correct?

9 A. Yes.

10 Q. Which would include expected paid recoveries
11 to happen in the future in their claims; correct?

12 A. Expected paid recoveries were one of the
13 types of change in status that the Directors would
14 populate into this online tool.

15 Q. And the expected change in terms of the
16 expected recovery, that would be -- could be noted
17 in the change in status field, the change might be
18 for the next month or even further into the future;
19 correct?

20 A. Yes.

21 Q. And you would have online access to this
22 with the Directors or what information they're
23 filling in in this regard; correct?

24 A. Yes.

1 Q. And also on a monthly basis, you would
2 receive a printed report of the claims expected to
3 recover that would include an approximate reserve
4 amount associated with those claims; is that true?

5 A. Yes, I would receive that from Ms. Griffin
6 or perhaps her administrative assistant.

7 Q. All right. And anywhere from 10 to 50
8 claims per Director per month would tend to be the
9 expected number of recoveries for a month; is that
10 correct?

11 A. No. I would say the expected number of
12 recoveries would not be anywhere close to that 50
13 number. I would say, you know, 10 to 50 might be
14 the total range for expected change in status, so
15 part of which would include the recoveries and part
16 of which would not. They would represent other
17 types of changes in status.

18 Q. If you were just looking at recoveries,
19 what would the average tend to be per claim for
20 claims per Director per month?

21 A. You know, as a range, I would say maybe
22 from eight to 15, something like that, and we're
23 talking about both paid and unpaid recoveries.

24 Q. All right. And, again, an unpaid recovery

1 would be what a layperson might call a denied claim;
2 correct?

3 A. I think a denied claim could be one
4 example of an unpaid recovery. I'm not sure it
5 would be all inclusive though.

6 Q. Well, what would other examples be?

7 A. I don't recall.

8 Q. And from this information, that enabled
9 you -- you could add up to see where your team's
10 performance was likely going to be relative to the
11 plan; correct?

12 A. I would use the information that I was
13 provided at the beginning of each month to forecast
14 the likely performance of my team for that month,
15 yes.

16 Q. I'm not sure if you're stating it that way
17 as disagreeing with the way I stated it or not. So
18 let me try to clarify.

19 A. Could you please restate it then.

20 Q. I had asked that from the change in status
21 list that you were provided from Ms. Griffin or her
22 administrative assistant that had reserve numbers
23 assigned to the claims, wasn't it correct that you
24 could add those up and be able to see what your

1 team's performance was going to be relative to the
2 plan for that month?

3 MS. ZHORDANIA: Objection. Argumentative.
4 Foundation.

5 A. I could see where the performance was
6 expected or forecasted to be, but it wouldn't be
7 until the end of the month that I could see how that
8 reconciled.

9 Q. Right. And I think I had said what was
10 likely going to be given, the data that you have on
11 this report?

12 MS. ZHORDANIA: Asked and answered.

13 A. I could take the information I was
14 provided and come up with an approximation of where
15 it was likely that the team would finish at the end
16 of the month.

17 Q. Okay. When you talk about unpaid recovery,
18 unpaid recovered claims would also have reserves
19 associated with them prior to them being there in
20 the system as being recovered; correct?

21 A. I believe every open claim had a reserve
22 associated with it.

23 Q. All right. And just, again, so we're
24 understanding terms, if I submit a claim, even

1 though you haven't evaluated and decided on the
2 claim, that's going to cause an open claim; correct?

3 A. Yes.

4 Q. Okay. Now, if the -- as you add up the
5 reserves connected with the anticipated recoveries
6 for the month for your Directors, and if you see
7 that even if all of those expected recoveries
8 happen, you'll still be short of what the plan is
9 for recoveries for that month, you could meet with
10 individual Directors to discuss some rationale as to
11 why their anticipated recoveries were what they
12 were; is that correct?

13 A. Well, first of all --

14 MS. ZHORDANIA: Foundation.

15 A. -- I would say that it would be very
16 unlikely that all of the claims on the change in
17 status report identified as a potential recovery.
18 It would be very unlikely that all of those claims
19 would actually resolve in that month.

20 Q. Okay. On average, what did experience
21 teach in terms of what percentage of the claims on
22 the list expected to recover would actually recover?

23 MS. ZHORDANIA: Overbroad. Calls for
24 speculation.

1 Go ahead.

2 A. I don't think I can give a percentage
3 because I would say different Directors utilized the
4 change in status tool a little bit differently.
5 Some had different thresholds under which they would
6 put something on that list than others. So, you
7 know, it was really up to them to determine what
8 they thought the likelihood of the claim recovering
9 would be. Some would enter, you know, claims that
10 had a relatively small chance of recovering and
11 others would, I think, choose to enter claims that
12 maybe were more likely than not to recover; so, I
13 can't really give a specific percentage because of
14 the variation from one Director to another.

15 Q. But and I would expect there would be
16 variation, and I guess I'm asking, given the
17 variation, when you kind of stand back and eyeball
18 it, did you not come to get a sense of well, the
19 experience teaches we -- there tends to be around
20 50 percent recovered from what's actually on this
21 list or fill in the blank?

22 MS. ZHORDANIA: Foundation. Asked and
23 answered. Calls for speculation. Go ahead.

24 A. Again, I don't recall having a particular

1 percentage or range of percentages that I would have
2 relied on to utilize.

3 Q. Wouldn't this list give you information
4 that would be informative of the likelihood of your
5 meeting the planned recovery number for the month?

6 A. Yes.

7 Q. And if the -- you know, the higher the
8 number is relative to the plan, wouldn't it be true,
9 the more likely you're going to hit the plan number?

10 A. The higher what number?

11 Q. The higher the number of the aggregate of
12 the reserves on the list?

13 A. I don't think I understand what you're
14 asking.

15 Q. All right. When you get the list from
16 Ms. Griffin for the change in status by recoveries
17 for the upcoming month, and the total of those
18 reserves is a larger number, relative to the plan
19 number, as opposed to a smaller number, I'm asking
20 wouldn't the larger the number suggest to you the
21 more likely you're going to hit plan as opposed to a
22 low number?

23 MS. ZHORDANIA: Foundation.

24 A. Again, the list that I was provided would

1 include the estimated reserve information for any
2 claim that the Director identified as a potential
3 change in status for that month or for a future
4 month within I forget if it was somewhere between
5 three and six months in the future, so --

6 Q. Can I interrupt you for a second. I want
7 to understand what you're saying, and then we'll get
8 your place and go on.

9 A. Sure.

10 Q. Are you saying that the list you would get
11 each month from Ms. Griffin or her administrative
12 assistant would be for claims expected to recover,
13 according to the Director populating it on the
14 change in status, for that month that you're about
15 to enter as well as more months in the future?

16 A. To the best of my recollection, the online
17 change in status tool that we're discussing that was
18 populated by the Directors had a time component to
19 it; so, the Directors were expected to have
20 knowledge of the group of claims and the block that
21 they were responsible for, and for entering future
22 change in status potential for those claims. And
23 some of those claims would be expected to recover in
24 the current month, and some would be expected to

1 recover in future months, and so what I'm saying is
2 that the report or information I was provided had
3 claims for a greater than one month time frame.

4 Q. And I understand that online when you
5 would look at the change in status fields, it would
6 be for multiple months. Just so you're clear, I'm
7 asking the written report that you were given from
8 Ms. Griffin, would that also include multiple
9 months?

10 A. I believe it did, but I can't remember for
11 sure.

12 Q. All right. For sure the online did;
13 written report, you don't recall?

14 A. The online information definitely had
15 change in status information for beyond the current
16 month. I believe that the written report I
17 received, which contained the approximate reserve
18 information, I believe that that also included the
19 future month information, but I can't recall for
20 sure.

21 Q. Well, do you recall - and I ask you this,
22 and maybe it will trigger your memory - that the
23 written report that you got, was it providing you
24 associated reserves for the immediate month that's

1 about to happen and multiple months going forward?

2 MS. ZHORDANIA: Asked and answered.

3 A. That's what I'm saying I can't recall for
4 sure. My best recollection is that the written
5 report I received from Ms. Griffin or her assistant
6 contained information on claims and approximate
7 reserve information for not only that current month
8 but also for months into the future coinciding with
9 what the Directors had populated in the online tool.

10 Q. Okay. How big was this report?

11 A. Can you clarify what you mean by that.

12 Q. Number of pages?

13 A. For a given Director, I think we've
14 established that, you know, they would be, as a
15 rough estimate, you know, 10 to 50 projected changes
16 in status on the report, and so the size of the report
17 for each Director would reflect that and multiply
18 that times six, and that would be the size of the
19 report that I would get. I can't tell you how many
20 pages, because I don't remember, you know, how big
21 the font was on the report or anything like that,
22 but.

23 Q. All right. So you would get a report for
24 each Director underneath your supervision from

1 Ms. Griffin --

2 A. Yes.

3 Q. -- correct?

4 The eight to ten expected recoveries that
5 you estimated, is that including claims for all the
6 future months?

7 A. I think I estimated eight to 15, and that
8 estimate was in relation to a given month, which I
9 understood the context of your question at the time
10 to mean.

11 Q. And it was, but I didn't know we were
12 talking about multiple months that were on the
13 report; so, I wanted to clarify that.

14 As you would kind of absorb the monthly
15 report with the associated reserves, and if it
16 appeared to you from the report, given the numbers
17 that the likelihood of meeting the plan recovery was
18 going to be very small or, say, impossible, would
19 there ever be any steps you would take about that?

20 A. Yes.

21 MS. ZHORDANIA: Foundation.

22 Q. And would one of the steps you could take
23 would be to speak with your Directors?

24 MS. ZHORDANIA: Misstates prior testimony.

1 A. Well, I would speak with my Directors on
2 an ongoing basis all the time, whether the --
3 regardless of the likelihood that the forecasted
4 monthly results were or were not on track.

5 Q. Sure. But I'm not asking that. What I'm
6 asking you is if one of the steps you could take
7 would be to speak to your Directors about this
8 issue?

9 A. It would be one of the steps, but it would
10 also be one of the steps regardless of whether I
11 expected the results to be what they were forecast
12 to be.

13 Q. Well, if I'm understanding you, Mr. Peter,
14 you're just saying you don't need this as a reason
15 to speak to your Directors; correct?

16 A. Yes.

17 Q. You speak to your Directors throughout the
18 month; correct?

19 A. Yes.

20 Q. All right. So that you understand what
21 I'm asking you, if you get this report and seeing
22 it, you conclude it's very unlikely you're going to
23 meet the recovery plan for the month, would you
24 likely speak to individual Directors about their

1 particular forecast for recoveries?

2 A. Yes, as I stated before, Directors were
3 expected to have knowledge of their inventory and
4 their block of claims. So if -- if under the
5 scenario you're describing, I would likely speak
6 with the Director to learn more about the reasons
7 why the projected results were different than what
8 the historical forecast would suggest.

9 Q. Okay. And in speaking with Directors
10 about that, might that result in in their projected
11 result increasing?

12 MS. ZHORDANIA: Foundation.

13 A. I'm sorry. I don't --

14 Q. Their projected result for recoveries in
15 the upcoming month to increase to more closely match
16 the planned forecast?

17 MS. ZHORDANIA: Foundation.

18 A. You're asking if the result of my
19 conversation with them was that their forecast would
20 increase?

21 Q. That's one way to put the question, I
22 guess, yeah.

23 A. I would say no. I would say that my
24 objective in speaking to them would be to gain their

1 perspective on their block of claims and why their
2 forecast was different from what the historical
3 projection would suggest.

4 Q. All right. It is true that as an AVP, you
5 were -- you also were judged on whether your
6 organization -- your organization's recoveries were
7 meeting plan; correct?

8 A. That was certainly one of the factors that
9 I was evaluated against, yes.

10 Q. All right. And your Directors are evaluated
11 on that as well; correct?

12 A. Among other things, yes.

13 Q. Okay. So if it appears to you from -- I
14 mean isn't this one of the reasons that you are
15 getting this paper copy of the projected recoveries
16 from Ms. Griffin with the associated reserves, so
17 that it will help you manage the claims inventory?

18 A. I'm not sure I would say it helps me
19 manage it. I would say it helps me evaluate the
20 performance of the block of claims against what the
21 forecast was. So it was a tool among many others.
22 We had tools to evaluate, you know, quality and time
23 service, customer service, and so forth, and this
24 was one of the metrics; the recovery metric that

1 we're speaking of was one of the metrics that would
2 be used to evaluate the performance of myself and my
3 teams.

4 Q. All right. Well, when you -- as you
5 indicated, yes, you might sit down and talk to an
6 individual Director, to learn about why his or her
7 projected recoveries for that month were below plan;
8 correct?

9 A. Yes.

10 Q. Okay. And in doing so, you would ask the
11 Director to explain why their projected number is as
12 low as it is relative to the plan; correct?

13 MS. ZHORDANIA: Asked and answered.
14 Misstates prior testimony.

15 A. I would speak with the Director to gain
16 their perspective on the block of claims under their
17 management and learn more about what they knew about
18 the claims that would help explain why the projection
19 was different from -- why their projection was
20 different from what the plan was.

21 Q. Right. So you would look for an
22 explanation from them as to why their number was
23 lower than what the plan was?

24 MS. ZHORDANIA: Asked and answered.

1 A. Yes, that's part of what we would discuss.

2 Q. All right. As the month would go on, you
3 would have periodic follow-up with each Director to
4 see where each was in relation to the month's
5 recovery goal; correct?

6 A. Yes, I met with my Directors periodically
7 to talk about their team's performance in relation
8 to the recovery metric as well as several other
9 metrics.

10 Q. And if a claim that had been listed as one
11 that was expected to close by a Director had not, in
12 your meeting, you would seek an explanation for why
13 the claim hadn't closed; correct?

14 A. Yes.

15 Q. Okay.

16 A. Not every time, every claim, but certainly
17 there were situations where we would discuss why a
18 given claim had been projected to recover and
19 ultimately didn't --

20 Q. All right.

21 A. -- in that time frame.

22 Q. Well, if a claim had been projected to
23 recover and did not in that time frame, you would
24 often have a discussion with the Director for an

1 explanation as to why it had not; is that fair to
2 say?

3 MS. ZHORDANIA: Asked and answered.

4 A. I would say sometimes. I don't know if it
5 was the majority or not, but there were certainly
6 situations that I would discuss that, yes.

7 Q. All right. Let's take a break.

8 A. Pardon me.

9 Q. Let's take a break.

10 A. Okay.

11 THE VIDEOGRAPHER: We are off the record
12 at 1:25 p.m.

13 (Short break taken.)

14 THE VIDEOGRAPHER: We are on the record at
15 1:37 p.m.

16 BY MR. DAWSON:

17 Q. Mr. Peter, I kind of have some retrograde
18 motion here, going back to your tenure at Paul Revere,
19 beginning in 1986, by the time of the merger with
20 Unum, so I guess probably after -- before or after
21 whether it was an acquisition or merger with
22 Provident, in addition to being Assistant Vice
23 President, you were also an officer of the company,
24 correct, of Paul Revere?

1 A. Yes, I think by virtue of the AVP title, I
2 was an officer.

3 Q. All right. And that was true then after
4 the merger as well? I mean, you were still --

5 A. My recollection is I became an AVP after
6 the Paul Revere/Provident merger, but I'm not
7 exactly sure.

8 Q. All right. So let me clean up my question
9 then. You became an officer in addition to being
10 AVP after -- I'm sorry -- which merger did you say?

11 A. My recollection is it was after the first
12 merger which is the Paul Revere/Provident one.

13 Q. All right.

14 A. And, again, it wasn't a -- the officer
15 designation came with the AVP title. It wasn't a
16 separate distinction. I think every AVP was, by
17 definition, an officer.

18 Q. An officer. All right. Thank you.

19 Let's see where I am here.

20 MS. ZHORDANIA: You were about to be done.

21 (Laughter.)

22 THE WITNESS: Thanks anyway.

23 MS. ZHORDANIA: I'm working for you.

24 BY MR. DAWSON:

1 Q. We were talking before the break about you
2 speaking to the Directors underneath your supervision.
3 I think -- did I ask you this? I don't know if I
4 asked you this or not, and that is would you have
5 periodic follow-ups with each Director to see where
6 they were in relation to the month's recovery goal?

7 MS. ZHORDANIA: Asked and answered.

8 A. I think you did ask --

9 Q. That's asked and answered?

10 A. Do you want me to answer again?

11 Q. I believe you said you would?

12 A. I think I said that was one of the things
13 that I would talk to my team about on an ongoing
14 basis.

15 Q. Right. All right. And the Directors had
16 responsibility for five or six DBSs underneath them?

17 A. Yes, generally.

18 Q. All right. And they had responsibility
19 for managing the inventory of claims that the DBSs
20 underneath them were working on; correct?

21 A. The Directors did?

22 Q. The Directors did.

23 A. Yes.

24 Q. So similarly, the Directors would be

1 expected as part of their managerial duties to speak
2 with the DBSs about what was going on on claims,
3 among other things, but relative to knowing what's
4 happening with the recovery, the actual recoveries
5 relative to the plan?

6 MS. ZHORDANIA: Objection. Misstates
7 prior testimony. Foundation.

8 A. It was a director's responsibility to, you
9 know, work with their team of DBSs to handle,
10 adjudicate the claims in their area of responsibility.

11 I'm not really sure -- well, let me -- I
12 would think that one of the things that the Directors
13 would speak to their DBSs about was, you know, with
14 respect to all the claims in their inventory what
15 they were doing on the claims, what they were
16 thinking would happen on the claims, if they needed
17 help with the claims, and so forth, just kind of
18 basic, you know, management of a team.

19 Q. Sure, and I'm just, again, so we're
20 communicating with one another, I'm asking just
21 about a specific aspect, and that is you would
22 expect the Directors to speak with their DBSs on
23 this issue of actual recoveries to planned
24 recoveries, just on that topic?

1 MS. ZHORDANIA: Objection. Misstates
2 prior testimony. Foundation. Go ahead.

3 A. The DBSs were really focused on, you know,
4 handling the claims that they were responsible for
5 and the service aspects of them. The populating of
6 the change in status tool was really something that
7 was primarily done by the Directors; and so the
8 focus of the communication between the Directors and
9 their DBSs was on just what was happening with their
10 particular claims, not really so much on whether it
11 did or did not achieve the change in status that was
12 predicted.

13 Q. All right. Fair enough. And, in fact,
14 the DBSs didn't even have authority to close a
15 claim; correct?

16 A. That's correct. Every -- the practice was
17 that any claim closure needed to be signed off by
18 both the Director and the QCC.

19 Q. All right.

20 A. I don't think we defined QCC yet, so I'll
21 just, for what it's worth, say it stands for quality
22 compliance consultant.

23 Q. Okay. So if a claim was going to be
24 closed, and thereby, have a recovery, that was going

1 to be a decision that had to come from the Director,
2 and as you say and signed off by the QCC; correct?

3 MS. ZHORDANIA: Foundation.

4 A. I wouldn't say it was a decision that came
5 from the Director. I would say the Director and the
6 QCC were responsible for approving it or signing off
7 on it, but the impetus for the decision to close the
8 claim would typically come from the DBS, but they
9 needed authority or approval to do it.

10 Q. When you say the "impetus for the decision
11 to close the claim," is that to say the DBS is the
12 one who's working the claim file day-to-day. Would
13 that be correct?

14 A. Yes.

15 Q. I mean to the extent it's worked day-to-day,
16 but.

17 A. Sure.

18 Q. And it would be expected that the DBS
19 would be the one to let his or her Director know, I
20 think this claim is in a position, is in a state to
21 be closed?

22 A. Right. I guess --

23 MS. ZHORDANIA: Foundation.

24 A. -- I was trying to say -- the way I

1 interpreted your question was that the Director
2 would instruct or tell the DBS to -- that it was
3 time to close the claim, and what I'm saying is
4 really the impetus, the recommendation for that came
5 from the DBS to the Director, not vice versa.

6 Q. All right. And the Director was in a
7 position of authority to say no, I don't agree with
8 your recommendation or say, yes, I do and let's move
9 it on to the QCC; is that correct?

10 A. Yes.

11 Q. All right. And we talk about you having
12 periodic follow-up with each of your Directors.
13 Your supervisor, Ms. Griffin, would also have
14 periodic follow-up with you in relation to the
15 month's recovery goal; correct?

16 A. That was one of many things that we would
17 speak about in meetings between the two of us, yes.

18 Q. All right. And in those meetings,
19 Ms. Griffin would have access to where your
20 organization was relative to the recovery plan;
21 correct?

22 A. My recollection is that that information
23 was compiled weekly, so it wasn't real-time
24 information per se, but on a week-to-week basis,

1 Ms. Griffin would have access to how my team was
2 performing in relation to the plan information.

3 Q. All right. And your periodic meetings
4 with Ms. Griffin in this regard would tend to be
5 after one of those weekly updates as to where your
6 organization was, fair to say?

7 A. It could be before or after. I mean, if
8 it was -- you know, I guess by definition, if it's
9 after week two, it's before week three; so, it's
10 really both.

11 Q. I got you. All right.

12 Was there any concern during your years in
13 the claim operation, among any in the claim department
14 that, to your knowledge, that this practice of
15 monitoring actual recoveries to recovery plan and
16 where are you at and where your numbers are may
17 influence claim decisions to be made without fair
18 regard to the insured's interests?

19 A. You're asking if anyone ever thought that?

20 Q. To your knowledge, of course.

21 A. I don't know.

22 Q. Well, my question was not very good.

23 I'm not asking for anything beyond your
24 knowledge. So the answer "I don't know" means I

1 didn't ask a good question.

2 I'm asking, to your knowledge, did anyone
3 ever express any concern that this practice may
4 influence claim decisions to be made without fair
5 regard for the insured's interest?

6 A. I don't recall that being the case, no.

7 Q. I mean it was made clear to -- it was made
8 clear to you as an AVP that making the plan recovery
9 numbers was not merely a hope, but it was an
10 expectation; correct?

11 MS. ZHORDANIA: Asked and answered.
12 Misstates prior testimony.

13 A. I would say that there were numerous
14 standards and metrics and expectations that I was
15 held accountable for as an AVP, one of which was how
16 the block of claims that I had under the management
17 of my teams performed over a period of time in
18 relation to what the historical expectations were.

19 Q. All right. And to narrow that somewhat,
20 it is true that you were held accountable for the
21 actual recoveries measuring against the plan;
22 correct?

23 MS. ZHORDANIA: Asked and answered.

24 A. Again, that was one of the many factors

1 that I was held accountable for, yes.

2 Q. And you, in turn, would hold accountable
3 the Directors underneath you for the actual recoveries
4 within their inventory and how they measured against
5 the plan; correct?

6 A. That was one of the factors, yes.

7 Q. Okay. And you -- I mean it was part of
8 your job to make clear to the Director that you were
9 holding them accountable for this; is that fair to
10 say?

11 MS. ZHORDANIA: Objection. Foundation.

12 A. Yes, I think -- I would like to think that
13 as a manager I was clear on what the numerous
14 expectations were of the Director and whether they
15 relate to recovery expectations or the quality or
16 timeliness of the decisions, I'd like to think that
17 as a manager, I clearly communicated those.

18 Q. All right. You would impress upon each
19 of your Directors the importance of meeting the
20 recovery numbers?

21 MS. ZHORDANIA: Objection. Asked and
22 answered.

23 Q. Fair to say?

24 A. Again, that was one of the many factors

1 that I would impress upon them as being important.

2 Q. All right. And this particular factor,
3 the importance of achieving the recovery plan would
4 be the subject of ongoing discussions between you
5 and each of your Directors; true?

6 MS. ZHORDANIA: Objection. Asked and
7 answered.

8 A. As -- yes, as was the case with many
9 metrics.

10 Q. Okay. And within those ongoing discussions,
11 you would let your Directors know where they were in
12 relation to meeting his or her monthly recovery
13 target; true?

14 A. As well as other metrics, yes.

15 Q. And within these periodic discussions, you
16 might inquire of a Director what barriers may exist
17 that would prevent a particular claim that had
18 expected to close from closing?

19 A. Yes.

20 Q. Holding your Directors accountable for
21 meeting the expected operational performance or the
22 operational metrics was also something that was
23 included in the director's performance evaluations;
24 correct?

1 A. I believe so.

2 Q. And was it included in yours as well?

3 A. I believe so, yes.

4 Q. You might in discussions with a Director
5 ask to be kept apprised of the status of a given
6 claim that was expected to recover; true?

7 A. I would have occasion to ask to be
8 apprised of status of different types of claims,
9 including ones that were expected to recover.

10 Q. All right. And you may also ask to be
11 kept apprised of a claim that had closed but might
12 reopen?

13 MS. ZHORDANIA: Vague.

14 A. Yes. My recollection is that I -- part of
15 my responsibility as an AVP was to review and sign
16 off on the claims that needed to be reopened, so
17 that I would be aware of them personally.

18 Q. So is that to say so you had -- you
19 especially had interest in a claim that had closed
20 that you had reason to know was being considered for
21 a possible reopen?

22 MS. ZHORDANIA: Misstates testimony.

23 A. You're asking if -- I'm sorry. Could you
24 please repeat it.

1 Q. Yeah, you had answered my prior question
2 that you had to review and sign off on claims that
3 needed to be reopened, so that you needed to be
4 personally aware of them; correct?

5 A. Yes. Yes.

6 Q. And that was in response to my question of
7 you would at times be asked to be apprised of the
8 status of claims that had closed that were in
9 consideration as to whether they're going to be
10 reopened. That's a fact.

11 So my next question is are you saying
12 because you had to review and sign off, you would
13 especially, yes, want to be apprised of claims that
14 had closed that may be considered to be reopened?

15 A. Well, I guess I didn't have to be asked
16 because I was required to review them, and the
17 reason I was required to review them is that the
18 quality and the appropriateness of the claim
19 decisions that a given Director or their team made
20 was something that I was held accountable for, and
21 so, part of the reason for my reviewing claims that
22 were being recommended to reopen after they had been
23 closed was as a way to monitor the quality of the
24 decisions that had been previously made, and that

1 would enable me to notice any trends that might
2 exist with a given Director and their teams, if, for
3 example, one Director team had a higher number of
4 reopens than all of their peer teams, I might wonder
5 why that was the case and perhaps the claims that
6 they were signing off on to close, maybe that needed
7 to be looked at because there was an unusually high
8 percentage of them that were subsequently reopening.

9 MR. DAWSON: Okay. Mark this as two,
10 please.

11 (Document was marked Exhibit No. 2 for
12 identification.)

13 Q. Mr. Peter, Exhibit 2 is a page from the
14 claim file, and the bottom right corner of the page
15 number is 00049. Do you see that?

16 A. Yes.

17 Q. Had you reviewed the claims file prior to
18 your deposition or portions?

19 A. Not in preparation for the deposition. I
20 may or may not have reviewed the file in conjunction
21 with my employment, back prior to two years ago.

22 Q. But you have not since?

23 A. Correct.

24 Q. Okay. The bottom e-mail, which is the

1 first in sequence is from a Brenda Shepard. Who is
2 Ms. Shepard?

3 A. As is indicated in the signature block of
4 her e-mail, she's a lead appeals specialist for
5 Unum.

6 Q. All right. And the body of her e-mail
7 says, "Attached please find my RT Memo of today's
8 date."

9 What is an RT memo?

10 A. You know, I actually don't recall. I
11 think it might be something about return, but --

12 Q. Yes, and I'm not sure where I saw this
13 reference, but is it correct that it means a
14 decision hasn't been made yet?

15 A. No. Well, I guess it depends on what type
16 of decision you're referencing.

17 Q. Okay. Well, the date of this is March 2,
18 2016. Do you see that?

19 A. Yes.

20 Q. And does this look familiar to you from
21 when you worked on the claim?

22 A. I mean I don't recall this particular
23 e-mail.

24 Q. All right.

1 A. The nature of it is familiar, as a
2 general -- not specific to this claim but as a
3 general type of e-mail that I would see and respond
4 to.

5 Q. I understand what you're saying and, again,
6 what is the general nature of it that gives you
7 familiarity?

8 A. So the purpose of Ms. Shepard's e-mail is
9 to -- again, she's in our appeals organization, and
10 the appeals organization is part of but separate
11 from the claims or benefit operations area, and the
12 appeals area is responsible for reviewing decisions
13 on claims where the operations area has made a
14 decision, and the claimant subsequently appeals that
15 decision.

16 So the practices that were in place
17 provided a mechanism for a claimant to appeal, let's
18 say, the denial of their claim, and in conjunction
19 with that, the entire claim file would be reviewed
20 by the appeals organization, so in this case,
21 Ms. Shepard; and the claim would be reviewed and
22 analyzed, kind of, you know, from the beginning as a
23 new type of review to ascertain whether the decision
24 to deny the claim was consistent with Unum's

1 practices.

2 In some cases, the claimant would submit
3 an appeal without any new information being
4 provided, and in some instances, the claimant would
5 submit an appeal along with some additional
6 information that the claimant felt would help change
7 the decision that the company made to deny their
8 claim.

9 Q. All right. So the status -- and I'll just
10 represent to you this is out of Biliack's claim
11 file. This is his claim number we see referenced
12 here.

13 And the status at this point is that an
14 appeal is considered to have been submitted, but a
15 decision hasn't been yet made on it.

16 Is that the type of communication that you
17 might typically be copied on?

18 MS. ZHORDANIA: Objection. Lacks
19 foundation.

20 A. I would typically be copied on a situation
21 where an appeal was made, and I would be apprised of
22 the outcome one way or another after the appeal
23 review had been completed. So I would not be part
24 of the review. My team would not be part of the

1 review. As I said, it was an independent part of
2 the company that did the appeal reviews, but it
3 would be common practice for the appeals organization
4 to notify me and others of what decision they had
5 reached.

6 Q. All right. On this e-mail, you do see
7 that you are a recipient on it; correct?

8 A. Yes.

9 Q. All right. As is Jodi Bishop, the DBS;
10 correct?

11 A. She is a DBS. I don't know whether -- I'm
12 assuming she's the DBS on the Biliack claim, but I
13 don't know that for sure.

14 Q. All right. As is the QCC, Mr. Birch?

15 A. Yes.

16 Q. And Steven Carlson, was he the appeals
17 supervisor?

18 A. I believe he would have been Brenda's,
19 Ms. Shepard's Director.

20 Q. All right. Is it Mr. Ferranti or
21 Ms. Ferranti?

22 A. Ms.

23 Q. What position did she have?

24 A. I believe she would have been -- so

1 Mr. Carlson was Ms. Shepard's manager, and
2 Ms. Ferranti was Mr. Carlson's manager.

3 Q. As Mr. Carlson's manager, would she be an
4 AVP?

5 A. I believe she was, yes.

6 Q. And Mr. Hackett, his position?

7 A. He, I forget his title, but he was -- he
8 had something to do with our complaints or compliance
9 area.

10 Q. Was he traditionally copied on e-mails
11 relating to appeals?

12 MS. ZHORDANIA: To the extent it calls for
13 speculation, I object.

14 A. I think so, but I'm not sure. My best
15 recollection is that the list of people and their
16 positions would be kind of a standard, set thing
17 that the appeals specialist would -- that those were
18 the individuals and their positions that would be
19 notified whenever an appeal was decided.

20 Q. All right. Ms. Bishop's Director,
21 Elysabeth Wetton, is copied on it; correct?

22 A. Yes.

23 Q. As were the two Vice Presidents at the
24 time, Mr. Williams and Ms. Griffin; correct?

1 A. Yes.

2 Q. And then also Scott Gillaspie was copied
3 on it. Do you see that?

4 A. Yes.

5 Q. What's his position?

6 A. I forget his exact title, but he was, I
7 think, a business analyst, someone who would be
8 responsible for compiling different metrics, and so
9 we would, for example, evaluate over a period of
10 time how many appeals there were and what the outcome
11 of them had been, and so Mr. Gillaspie, would, I
12 believe, have been responsible for compiling that
13 data into some type of report that we could utilize
14 later.

15 Q. What role did Mr. Gillaspie play relative
16 to the recovery plan?

17 MS. ZHORDANIA: Foundation. Calls for
18 speculation.

19 Go ahead.

20 A. Other than -- I guess his role was, again,
21 as a business analyst was simply compiling on a
22 month-to-month basis the -- what the performance of
23 given teams were in relation to the plan expectation.
24 So he -- to the best of my knowledge, he did

1 not -- he did not devise the plan expectations. He
2 did not communicate them. It was his role as a
3 business analyst and someone who was kind of
4 responsible for compiling metrics to compile a wide
5 variety of information, again, with respect to
6 appeals, with respect to monthly plan performance,
7 and many others.

8 Q. Including with respect to recovery?

9 A. Again, I think he was responsible for
10 compiling in a report the numbers or the information
11 for each team.

12 Q. Including recovery?

13 A. Yes.

14 Q. All right. You referred to him as a
15 business analyst. If Mr. Gillaspie described
16 himself as a financial analyst, would that be
17 contrary to what you thought his role was?

18 A. No, as I said I wasn't sure of the exact
19 title, but it was -- I would use those terms somewhat
20 interchangeably.

21 Q. All right. When you said he compiled a
22 month to month, the actual results to the plan, so
23 included within that, Mr. Gillaspie would be the one
24 compiling the actual recovery results measured

1 against the plan recovered results; correct?

2 MS. ZHORDANIA: Calls for speculation.
3 Foundation.

4 A. My recollection is that was one of his
5 responsibilities, yes.

6 Q. Okay. So if a -- if a claim is closed,
7 it's recovered; correct?

8 A. Yes.

9 Q. And Mr. Gillaspie would be apprised of
10 that; correct?

11 MS. ZHORDANIA: Calls for speculation.
12 Lacks foundation.

13 A. I don't believe he would be apprised of
14 each claim individually being closed. I believe he
15 would see at the end of a given month or some period
16 of time he would see the aggregate results. I don't
17 think he had anything to do with the results or the
18 outcome of a given claim. He was responsible for
19 compiling the results on an aggregate basis.

20 Q. All right. Well, in order to compile the
21 results on an aggregate basis, Mr. Gillaspie would
22 have to be provided with information in terms of
23 reserves recovered when claims are closed; correct?

24 MS. ZHORDANIA: Calls for speculation.

1 Foundation.

2 A. Again, he would, I believe, be apprised or
3 have access to information about the reserves in
4 aggregate but not necessarily for a particular claim
5 individually.

6 Q. To your understanding why would it be that
7 Mr. Gillaspie, as a financial analyst, would be
8 copied on an individual -- on an e-mail about an
9 individual claim such as this?

10 MS. ZHORDANIA: Calls for speculation.

11 A. As I stated, his responsibility was to
12 compile a variety of metrics that spoke to the
13 operational performance of the claims organization.

14 So in order for us to understand how many
15 appeals were submitted and the outcome of those
16 claims, he would need the information in order to
17 compile a report that, in aggregate, showed the
18 information that I'm talking about.

19 So we would be able to look on a monthly
20 or, say, quarterly basis and see "X" number of
21 appeals had been submitted. Some portion or
22 percentage of those were upheld; some portion or
23 percentage was overturned, and so forth.

24 So he was -- to answer your question, my

1 understanding is he was provided with this information
2 in order to help compile the reporting that he was
3 responsible for.

4 Q. But what I'm trying to learn from your
5 testimony, it sounds like Mr. Gillaspie would be
6 getting information in the aggregate, you know, at
7 the end of the month, for example, which is what
8 caused me to ask you why would he be on an e-mail
9 on a claim as it's happening, deciding whether it's
10 going to be reopened or not?

11 MS. ZHORDANIA: I'm sorry. What's your
12 question?

13 MR. DAWSON: I said I'm asking why would
14 he be on an e-mail --

15 MS. ZHORDANIA: Oh, okay.

16 MR. DAWSON: -- on a claim as it's
17 happening as to whether it's going to be opened or
18 not?

19 MS. ZHORDANIA: Asked and answered. Calls
20 for speculation. Lacks foundation.

21 A. Again, my recollection would be that some
22 information Mr. Gillaspie would have available to
23 him automatically or through a system of some kind
24 that he would be able to view and use to compile the

1 reports that he was responsible for. In some cases,
2 you know, our system reporting was not -- was not
3 such that all that information would be available
4 to him. So there would be some things that he would
5 have to kind of, you know, manually keep track of,
6 and apparently the appeals outcome is one of those.

7 Q. All right. So if a claim closes, thereby,
8 it's recovered and thereby the reserve is recovered;
9 correct?

10 A. I guess I would use the term that the
11 reserve is released.

12 Q. The reserve is released.

13 And if that claim is reopened, then a
14 reserve has to be established again; correct?

15 A. Yes.

16 Q. So in order for Mr. Gillaspie to compile
17 the reports that he is responsible for, relative to
18 the actual recoveries compared to the plan, he would
19 need to know about reopens; correct?

20 MS. ZHORDANIA: Objection. Calls for
21 speculation. Lacks foundation.

22 A. Again, Mr. Gillaspie was responsible in
23 his role for providing a variety of reporting and
24 metric information, and one of the metrics that we

1 would evaluate on an ongoing basis was the
2 percentage of claims that reopened, and so, in order
3 for him to do his job, he needed to know how many
4 claims reopened.

5 Q. Or apparently the claims that may reopen?

6 MS. ZHORDANIA: Argumentative. Asked and
7 answered.

8 A. I'm not sure.

9 MS. ZHORDANIA: Calls for speculation.

10 A. I've answered to the best I can of what
11 his responsibility was. I'm not familiar with every
12 detail of what he did.

13 Q. And there's a reply e-mail about
14 Ms. Shepard's, same day, but after hers from you,
15 indicating "Please keep me posted on the status of
16 this claim."

17 Do you see that?

18 A. Yes.

19 Q. Now, since reopening Dr. Biliack's claim
20 was not recommended, according to the claim file,
21 why would you want to be kept posted on the status?

22 MS. ZHORDANIA: Foundation.

23 A. I don't -- what I see in front of me
24 doesn't tell me that the recommendation was to not

1 reopen the claim.

2 Q. Well, assume with me for purposes of my
3 question that the claim file does not reflect that
4 the claim was recommended to be reopened. With that
5 assumption, can you tell me why you would want to be
6 kept posted on the status?

7 MS. ZHORDANIA: Object to lacks foundation
8 and incomplete hypothetical.

9 Go ahead.

10 A. You know, I would say that part of my
11 responsibility was to understand what happened to
12 claims after a decision was made. So if a decision
13 was made to deny a claim, and then an appeal was
14 submitted, I would want to know what was happening
15 with that claim. I would want to know if
16 subsequently it reopened. If it did reopen, I would
17 be curious to know whether it reopened with or
18 without any new information.

19 So if the decision was made to reopen the
20 claim without any new information, then I would
21 probably talk to the Director about why that was,
22 why did our appeals organization, upon their review,
23 recommend that the claim be reopened, and by
24 extension, therefore, it shouldn't have been closed,

1 I would want to know that, as it spoke to the
2 quality of the decision that the DBS and the
3 Director and the QCC made.

4 Q. Do you have a general recollection of what
5 the size of Dr. Biliack's reserve was?

6 A. I have no idea.

7 Q. Okay. If you were to assume that his
8 claim was approximately \$8,900 a month, he was in
9 his 50s, and it was lifetime benefits, would you
10 conclude from that that the reserve on his claim,
11 relatively speaking, would have been significant?

12 MS. ZHORDANIA: Object to "significant" as
13 vague and also object to the extent it calls for
14 speculation.

15 Go ahead.

16 A. I did not have any training in terms of
17 calculating or even estimating reserve information.
18 I was the recipient of information from my manager
19 that provided that information to me. I did not
20 have any, again, training in terms of how to
21 calculate that; and so I would, you know, in answer
22 to your question, I'm sure that the reserve on
23 Dr. Biliack's claim was higher than some and less
24 than others, but I can't quantify it in any way

1 because I don't have that background.

2 Q. Well, it doesn't really take training to
3 get an understanding that the larger the monthly
4 benefit and the longer the duration, the higher the
5 reserve, wouldn't you agree?

6 A. My understanding is that is accurate as a
7 general statement, but I'm sure there were other
8 factors that came into establishing the reserve.

9 Again, that was something that was done
10 outside of the claims organization by our finance
11 and actuarial folks, and my understanding is that in
12 addition to the factors you mentioned, which were
13 the benefit amount and the benefit period, that
14 there were other factors involved as well, but I
15 don't have a list of what those are.

16 Q. I'm sure. I'm sure.

17 If you had a claim close, and this is a
18 hypothetical, let's say that the reserve on the
19 claim was a million and a half dollars and now we're
20 looking at the possibility that claim may reopen, if
21 that were to happen, would you agree that would have
22 a noticeable impact on the actual recoveries to plan
23 for your group?

24 MS. ZHORDANIA: Objection. Incomplete

1 hypothetical. Calls for speculation, and vague as
2 to "noticeable."

3 Go ahead.

4 A. Yeah, I was -- I would say it would have
5 an impact, but, you know, you're asking about one
6 claim in a vacuum, and so in a given month, there
7 are, you know, dozens of claims that recover.
8 There's some number of claims that reopen, and so
9 it's difficult to state hypothetically what impact
10 or how noticeable an impact of one claim in a given
11 month with multiple variables would be.

12 Q. Would a large claim with a large dollar
13 reserve merit your attention any more, any less than
14 the smallest of claims?

15 A. From a reopen perspective?

16 Q. From a when you're looking and trying to
17 know what's happening with your inventory in terms
18 of recoveries?

19 A. I would say that the size of the reserve
20 on the claim was relevant in terms of oh, enabling
21 me to help forecast whether my team would -- where
22 they would be in relation to the plan based on
23 historical expectations, but the size of the reserve
24 really did not influence how I looked at the claim

1 or my thought process in reviewing a claim.

2 My objective was to review each claim on
3 its own merits, and, you know, arrive at a decision
4 or sign off on a decision that reflected the merits
5 of that case, whether it had a small reserve or
6 large or medium reserve.

7 Q. Well, but wouldn't the size of the reserve
8 you have interest in, just in terms of the outcome
9 of the claim and how it's going to impact your
10 operational metrics?

11 MS. ZHORDANIA: Objection. Asked and
12 answered. Misstates testimony.

13 A. Would I have interest in it?

14 Q. Yes.

15 A. Again, as I tried to state, my interest
16 would be in relation to how the size of any claim
17 related to what the monthly plan was and what the
18 forecasted performance in relation to that plan was.

19 Q. I mean it would be true that a smaller
20 number of claims with larger numbers of reserves
21 would get to the plan for recovery easier than a
22 large number of claims and small reserves; correct?
23 I mean that would follow.

24 MS. ZHORDANIA: Vague.

1 A. It would get to the dollar amount of the
2 recovery plan sooner, but not to the count plan of
3 the recovery -- the count aspect of the recovery
4 plans.

5 Q. Meaning the individual claim count, when
6 you say the count aspect?

7 A. Yes. Yes. Correct. Because as we
8 discussed, the recovery plan that I was provided
9 with each month included both a claim count and a
10 reserve release amount.

11 Q. Which are dollars?

12 A. Yes.

13 Q. While I'm asking you about some of these
14 Dr. Biliack e-mails in his claim file, were you
15 in -- were you aware at the time it was happening
16 that after Dr. Biliack's claim was closed, his
17 counsel had requested a copy of the file? Were you
18 aware of that?

19 A. I have no recollection of Dr. Biliack's
20 claim.

21 Q. Okay. I want to ask what your knowledge
22 about this from a policy perspective is. The file,
23 a copy of the file was sent to Dr. Biliack's
24 counsel, but Unum would not agree to send the

1 surveillance footage that was taken.

2 First of all, was there a policy or
3 practice that you were aware of in that regard?

4 A. I don't remember for sure.

5 Q. Ultimately Dr. Biliack's counsel was
6 told -- well, let me back up. I'll give you this
7 fact too. The termination of Dr. Biliack's claim
8 the letter, the rationale for the termination
9 included the surveillance, you know, what was
10 observed on the surveillance.

11 Does that change your answer at all in
12 terms of what the policy or practice may have been,
13 if you remember, without providing the surveillance?

14 MS. ZHORDANIA: Asked and answered.

15 A. No, I still don't recall.

16 Q. Okay. Ultimately Dr. Biliack's counsel
17 was told if they wanted to see the surveillance,
18 they would have to somehow gain the capacity to
19 issue a subpoena to get it.

20 Do you have a recollection of if that was
21 consistent with policy and practice?

22 MS. ZHORDANIA: Foundation.

23 A. I don't recall.

24 Q. You would know, of course, that in order

1 for a policyholder of Unum to issue a subpoena to
2 see the videotape of him being surveilled, he would
3 have to file a lawsuit?

4 MS. ZHORDANIA: Calls for speculation.
5 Foundation.

6 Q. Correct?

7 A. I'm not sure really what needs to occur
8 for a subpoena to be issued. You know, I have a
9 basic understanding that it involves, you know,
10 attorneys and, but as far as the mechanics of
11 issuing one or what is required to issue a subpoena,
12 I'm not sure.

13 Q. Do you have any knowledge of Biliack to
14 the extent were you ever asked to sign off on
15 anything regarding Biliack?

16 A. Again, I have no recollection of
17 Dr. Biliack's file or what involvement I may or may
18 not have had in it.

19 Q. By virtue of Dr. Biliack asking to have
20 the claim reopened or the decision appealed, in my
21 understanding, that would not trigger a need for you
22 to sign off on anything?

23 A. His appeal certainly would not have
24 required me to sign off on anything. If the

1 Director ultimately made the recommendation to
2 reopen the claim, then I typically would have been
3 required to sign off on that decision.

4 Q. All right. So you're not going to have to
5 sign off unless and until there's a point where
6 somebody below you is recommending the claim be
7 reopened, and thereby a reserve would have to be
8 established again; correct?

9 A. Right. My responsibility was to approve a
10 recommendation to reopen a file. If a recommendation
11 was made to keep the file closed, I would not be
12 required to sign off on that.

13 Q. Okay. One last question on the issue
14 about providing surveillance tape and just testing
15 your memory one last time.

16 Do you recall was the decision to provide
17 an insured surveillance video was it made on a
18 case-by-case basis as opposed to sort of a
19 one-policy-fits-all basis?

20 A. I'm not sure because that was not
21 something that I would generally be involved in.
22 That was something that the Director was responsible
23 for, and, you know, I imagine that there were
24 situations where they might have, you know,

1 consulted with our legal department perhaps or their
2 peers. I'm not sure, but the decision to or not to
3 release surveillance information was not something I
4 would typically be involved in. So I can't answer
5 whether it was case by case or more of a general
6 policy.

7 Q. All right. Elysabeth Wetton was deposed
8 earlier in the case, and rather than paraphrasing,
9 let me read this answer to you, if I can find her
10 here.

11 This is at page 248, line 22 of Ms. Wetton's
12 transcript:

13 "QUESTION: Did you ever express any
14 concern to Mr. Peter about these financial
15 expectations that were being put on your unit?"

16 "ANSWER: Just concerns about --"

17 "QUESTION: This doesn't seem right. I
18 don't know how we're going to do this, anything
19 along those lines?"

20 "ANSWER: I mean, I probably did at some
21 point."

22 "QUESTION: Did you ever get any pushback
23 from Mr. Peter about this?"

24 "ANSWER: I don't recall -- I don't recall

1 anything specifically for him responding and pushing
2 back."

3 Going to page 250:

4 "QUESTION: Did you ever express to
5 Mr. Peter that financial outcomes shouldn't play a
6 part in claims decisions?"

7 "ANSWER: I mean, generally speaking, I
8 did."

9 I had asked you before if you were aware
10 of anybody ever expressing concern that these --
11 these recovery expectations or goals might impact
12 the quality of the fairness of the claims decision,
13 and you said, I think, you didn't recall that
14 happening.

15 Do you not recall Ms. Wetton raising any
16 of these concerns?

17 MS. ZHORDANIA: Asked and answered.

18 A. I do not.

19 Q. If she had asked you that I have some
20 concern over financial considerations playing a role
21 in these decisions, what would you have told her?

22 MS. ZHORDANIA: Objection to the extent it
23 calls for speculation.

24 Go ahead.

1 A. I think I would have likely said that, you
2 know, the historical expectations are based on a
3 long history of the type of claims in her block of
4 claims under management, and that, you know, that
5 they were intended as a guideline. You know, as I
6 stated earlier, many businesses have many metrics
7 that they use to evaluate performance, and a common
8 way to evaluate performance is based on what's
9 happened in the past.

10 So all things being equal, if the same
11 types of situations and circumstances exist, if
12 that -- if those claims yielded whatever number or
13 recoveries in the past, that it's, you know, on the
14 surface, reasonable to expect that they would
15 continue to do so.

16 I'd suspect I would have asked Ms. Wetton
17 if she felt that the -- that the plan expectations
18 were not achievable for her to help me understand
19 why that was the case. So were there aspects of the
20 claims under her management that would suggest that
21 some of the circumstances had changed, so that the
22 historical expectation would not be as valid as we
23 were told it should be?

24 So I would have tried to understand -- I

1 would have delved into her knowledge of her block of
2 claims and tried to determine whether the inability
3 to reach the historical plan expectations, if that
4 was due to the nature of the claims or if it was due
5 to Ms. Wetton's knowledge or ability or ability to
6 manage her team, and so forth.

7 So I would have just tried to gain a
8 broader understanding, and if -- if she and if
9 others continued to express that concern, I probably
10 would have raised the concern with my manager and
11 perhaps, you know, we would have gone back to the
12 finance and the actuarial folks to say something
13 along the lines that, you know, what your forecasts
14 are suggesting are not what we're seeing now, and
15 you know, make people aware of that, so that they
16 could perhaps, you know, evaluate the historical data
17 more thoroughly or differently or somehow determine
18 if any adjustments needed to be made.

19 Q. What span of time is the historical
20 analysis coming from?

21 MS. ZHORDANIA: Calls for speculation.

22 A. I don't know.

23 MS. ZHORDANIA: Foundation.

24 Q. If Ms. Wetton asked, Mr. Peter, what span

1 of time is this historical information you're
2 telling me about coming from, your answer would be
3 the same: I don't know; correct?

4 A. I would say I don't know. I would say,
5 you know, my understanding is that the block of
6 claims that Unum has by virtue of our size and being
7 a leader in the disability market is very large.
8 You know, I had been told at one point that the data
9 we had was second in size only to the Social Security
10 Administration. I don't know if that's accurate,
11 but that's what I was told.

12 And so the larger the data that the
13 assumptions are based on, the more likely it is to
14 be statistically significant and relevant, but as
15 far as a particular number of years that it was
16 based on, I don't know.

17 Q. The size of Unum, you said in terms of
18 number of claims, second only to the Social Security
19 Administration. It's fair to say that its -- its
20 historical analysis just by virtue of the number of
21 claims, you're dealing with the law of large numbers
22 here; correct?

23 A. I think that was implicit in my answer to
24 the prior question.

1 Q. Yeah. I mean you had said earlier on - I
2 forget the number now - but just for your
3 organization, the number of active claims tended to
4 run -- I don't remember now.

5 A. I think what I said was a given Director
6 team might have 250 to 300 claims in their area,
7 and so if we assume that at a given time I had
8 six Directors reporting to me, then if my math is
9 right, that would be 1,500 to 1,800 claims in my
10 organization, active, open claims.

11 Q. And if you've got four Directors, as you
12 estimated, you'd take that times four; correct?

13 A. I think I estimated four AVPs, not
14 Directors.

15 Q. I'm sorry. I meant AVPs. And the
16 actuarial numbers that -- your analysis rationale
17 that you suggested you had explained to Ms. Wetton,
18 do you know does that include also beyond IDI
19 claims?

20 MS. ZHORDANIA: Calls for speculation.
21 Foundation.

22 A. I'm not sure. My -- I think my
23 understanding was that there would be a -- that the
24 analysis or the historical experience would be

1 broken out between individual disability claims and
2 long-term disability claims, group LTD claims. As
3 far as whether they were totally separate or whether
4 one block informed the other or had -- was combined
5 in some way, I don't know.

6 Q. You don't know.

7 What about is it broken out -- is there a
8 distinction made between own occupation policies
9 versus modified own occ. versus any occ.

10 A. You know, it's possible that that was the
11 case from --

12 Q. I assume it's possible --

13 A. -- from an actuarial perspective, but it
14 was not something that I was provided with. I never
15 received any information that broke down the block
16 of claims into own occ. or not own occ. or any
17 subdivision of whether or not own occ. existed.

18 Q. All right. And I think you already said,
19 and whether we're looking historically at claims for
20 the last two years or last ten years or 20 years,
21 you don't know; correct?

22 A. Correct.

23 Q. The explanation to my or the hypothetical
24 about Ms. Wetton raising some concerns about this

1 approach, it really breaks down, wouldn't you agree,
2 when you go from data looking at tens of thousands
3 of claims to somebody dealing with a few dozen
4 claims, where claim decisions have to be made this
5 month about Mr. Jones and Mrs. Smith, it's -- here's
6 my question: Wouldn't you agree it's not an
7 apples-to-apples comparison what I'm doing on
8 Mr. Smith's claim because of your historical
9 analysis of which you don't even know it's based on?

10 MS. ZHORDANIA: Objection. Argumentative.
11 Lacks foundation.

12 A. So what is your actual question?

13 Q. I would have said the same thing if I were
14 you.

15 (Laughter.)

16 Q. Just because -- let's say we understand
17 the data behind this historical analysis, and
18 because over tens of thousands of claims over "X"
19 period of time, there is an average of "Y" recoveries,
20 a month in the company, that does nothing to inform
21 me as a Director as to whether the claim in front of
22 me is fairly paid or fairly denied, wouldn't you
23 agree?

24 MS. ZHORDANIA: Objection. Foundation and

1 argumentative.

2 A. Looking at what you listed in a vacuum
3 would not provide that information, but --

4 Q. It would be of no help to me, would it?

5 A. I can't speculate to what would be of help
6 to you, but.

7 Q. Well, would it be of help to you if you
8 were making the decision on a person's claim, a
9 person who says I'm disabled. I can't work. I have
10 no way to generate income to know that well
11 historically, we have "X" number of recoveries a
12 month in this huge Unum organization. Would that be
13 a help to you on that claim?

14 A. Not particularly. As I stated before, the
15 objective was to evaluate every claim based on its
16 own merits, and, in fact, that is, I would say, a
17 main reason why the DBSs who were responsible for
18 those claims -- so when you earlier referenced a few
19 dozen claims, that number is most applicable to a
20 given DBS, because a given DBS would have, let's
21 say, 50 claims. So that's a few dozen.

22 The DBSs were not provided with any count
23 or financial reserve information. So they performed
24 their task based on the merits of each claim.

1 So a given Director who has 250 or 300
2 claims, which is more than a few dozen, is it
3 helpful for them to know on average how the
4 demographics and makeup of the block of claims that
5 they have under their management, I would think it
6 would be helpful to have an estimate of how that
7 block as a whole should perform.

8 It would not necessarily impact my
9 decision on the Mr. Jones claim that you asked
10 about, but over time, I think it's reasonable to
11 expect that the performance of the claims under my
12 management as a Director or as an AVP would roughly
13 approximate what the historical expectations were.

14 Q. Well, in terms of numbers we are talking
15 about the eight to 15 claims on the change in status
16 field that are expected to close this month, and
17 Ms. Wetton is talking about your coming around and
18 talking to her about why certain claims didn't close
19 that were on that change in status screen from those
20 eight to 15 claims.

21 Do you believe your law of large number
22 actuarial analysis answer to her is going to be of
23 help when she says, I don't think financial outcomes
24 should play a part in these claim decisions?

1 MS. ZHORDANIA: Objection. Mischaracterizes
2 Ms. Wetton's testimony. Argumentative and compound.

3 Go ahead.

4 A. Just to clarify, my role in this example
5 in speaking with Ms. Wetton, I would ask about
6 claims that she had forecast would recover that
7 didn't. I would also ask about claims that
8 recovered that she hadn't forecast, and the reason I
9 would do that is because it spoke to her overall
10 knowledge of her block of claims and so, if she
11 continually forecast claims to recover, and they
12 didn't or conversely, she had a lot of claims in her
13 block that recovered that she hadn't forecasted
14 would make me question how involved she is in the
15 claims, how knowledgeable she is about the claims on
16 her team.

17 Q. Mr. Peter, wouldn't you agree that the
18 actuarial historical analysis should really play no
19 part in deciding any given claim?

20 A. I don't think it does.

21 Q. And it should not, would you agree?

22 A. I would.

23 Q. Right. Each claim should be handled on
24 its own merits; correct?

1 A. Yes.

2 Q. And if it does or doesn't meet the
3 actuarial expectations, that's too bad, wouldn't you
4 agree?

5 A. I think as long as the reason it didn't is
6 appropriate.

7 Q. As long as it's fairly handled on its own
8 merits --

9 A. Right.

10 Q. -- whether it does or doesn't meet
11 actuarial merits, that's too bad, would you not
12 agree?

13 MS. ZHORDANIA: Argumentative. Asked and
14 answered.

15 A. When you say "too bad" --

16 Q. I mean it shouldn't matter.

17 A. On a given claim, I would agree.

18 Q. All right. And, yet, this historical,
19 actuarial analysis is being driven down into the
20 company at a pretty granular level, correct, while
21 you were there?

22 MS. ZHORDANIA: Object. Argumentative.
23 Misstates prior testimony.

24 A. Again, it was driven down to the Director

1 level, and a Director had 250 to 300 claims, so.

2 Q. And at the risk of interrupting, and the
3 Director is the one who is -- has the authority to
4 sign off on whether a claim's denied; correct?

5 A. In part, but it's also the QCC who signs
6 off on those as well, so it's a dual authority.

7 Q. Without going on too much of a side path,
8 QCCs are not substantively looking at the analysis
9 of a claim decision; isn't that true?

10 A. Not at all.

11 Q. Not at all it's not true or not at all
12 they're not?

13 A. It's not true at all.

14 Q. They are substantively analyzing whether a
15 claim was fairly recommended to be denied?

16 A. Absolutely. Their responsibility -- their
17 main responsibility at least as of the time I left
18 the company was to review every claim that was sent
19 to them with a recommendation to deny. They were
20 responsible for independently reviewing that claim
21 from the beginning to the end of the claim file.

22 Q. We'll let the QCC's testimony stand on its
23 own, I guess.

24 MS. ZHORDANIA: Move to strike that comment.

1 Q. The other issue --

2 MR. DAWSON: Yeah, I wouldn't want to read
3 that to a jury.

4 BY MR. DAWSON:

5 Q. The other issue that comes into play about
6 your, you know, law of large numbers historical,
7 actuarial analysis is isn't it necessary to take
8 into consideration that you're dealing with a closed
9 block of claims?

10 MS. ZHORDANIA: Object to the preface to
11 the extent it mischaracterizes witness' testimony
12 and foundation.

13 Go ahead.

14 A. The plan information that we were provided
15 for -- provided with -- excuse me -- was certainly
16 provided from people and functional areas in the
17 company who knew that the block of claims was
18 partially comprised of a closed block. So I would
19 assume but don't have personal knowledge that that
20 was already factored into what they were providing
21 as far as forecast on what the claim block would
22 yield in terms of recoveries.

23 Q. All right. To kind of unpack this, by
24 being a closed block, you don't have new lives coming

1 into this group; correct?

2 MS. ZHORDANIA: Vague.

3 A. If you're specifically talking about the
4 closed block, that's true, but we did --

5 Q. Right. I am.

6 A. -- previously say that the -- a given
7 claim Directors' block was comprised of both closed
8 and not closed or what Unum called the recently
9 issued business.

10 Q. All right. Well, let's assume we're
11 talking about claims like Dr. Biliack's which would
12 be part of the closed block. You're aware of that?
13 You know that Dr. Biliack's claim was comprised of
14 closed block?

15 A. I did not.

16 Q. Paul Revere policies issued in 1992, 1993,
17 own occupation guaranteed renewable, noncancellable,
18 lifetime benefits, closed block; correct?

19 A. Based on --

20 MS. ZHORDANIA: Foundation.

21 A. Based on what you just described, just
22 based on the 1992, '93 time frame, which I did not
23 previously know, then, yes, it makes sense that that
24 was part of the closed block.

1 Q. All right. So if you are going to talk
2 about the historical analysis of recoveries, you
3 should be -- one should be talking about the data
4 relative to the closed block, if we're talking about
5 this policy; correct?

6 MS. ZHORDANIA: Object to the extent it
7 calls for expert testimony and foundation.

8 Go ahead.

9 A. Again, all I can really say is that the
10 plan information that I was provided monthly did not
11 break down that between closed block and recently
12 issued block. So I presume, again, that the people
13 providing that information had knowledge of the fact
14 that the block was comprised of both closed and
15 recently issued and presumably had knowledge of the
16 percentage split between the two.

17 Q. So you are presuming that the historical
18 information, which is the basis for the recovery
19 plan, is factoring in that you have an aging group
20 of insureds within the closed block; true?

21 A. I'm presuming that the people who provided
22 us with the information, that it was their job to
23 understand the closed block and the recently issued
24 block and the various policy provisions and

1 demographics that existed and that that was part of
2 their role. That's my understanding of what -- part
3 of what actuaries do.

4 Q. All right. And you expect with an aging
5 block, you're going to have increased mortality -- I'm
6 sorry -- morbidity?

7 MS. ZHORDANIA: Objection. Calls for
8 expert testimony. Foundation.

9 Q. Well, you were in underwriting for how
10 many years, 20 years?

11 A. Yes.

12 MS. ZHORDANIA: And foundation.

13 Q. It's not within your 30 years of experience
14 in the company that as you get older, the chances of
15 becoming sick and disabled go up?

16 A. I think that's a fair general statement,
17 yes.

18 Q. Yeah. And Ms. Wetton knows that this
19 measure of the actual recovery results compared to
20 the planned forecast was a factor in how her
21 incentive compensation was determined; correct?

22 MS. ZHORDANIA: Calls for speculation.

23 MR. DAWSON: Let me reword the question.

24 MS. ZHORDANIA: You said --

1 MR. DAWSON: Let me reword the question.

2 BY MR. DAWSON:

3 Q. It is true that the director's measure of
4 their actual recovery results compared to the
5 planned forecast was a factor in how the director's
6 incentive compensation was determined?

7 MS. ZHORDANIA: Asked and answered.

8 A. The director's performance in relation to
9 their actual to expected recoveries was one of many
10 factors that went into their overall performance
11 evaluation. That performance evaluation, in turn,
12 helped determine the amount of their incentive
13 compensation.

14 Q. All right. So it's true it was a factor?

15 A. One of many.

16 MS. ZHORDANIA: Asked and answered.

17 Q. Okay. And these recovery plans being
18 provided to Ms. Griffin, from Ms. Griffin to you,
19 from you to the Director, and then following up with
20 what the actual are are compared to that, is it your
21 testimony that -- that that -- that is a practice
22 that Unum believed, through your eyes, was
23 appropriate, justified, and I'll leave it at that,
24 was appropriate and justified?

1 A. The practice of filtering down the
2 information that you described, you're asking if
3 that was appropriate.

4 Q. Right. From Vice President to Assistant
5 Vice President to the Director and then back up what
6 the actual results are?

7 A. I can say that that was the practice
8 throughout my tenure in the claims organization.
9 You know, like any large company, we have people
10 whose responsibility it is to determine what's
11 appropriate, what's in compliance.

12 Q. I'm just asking your opinion.

13 A. Yeah, my opinion is that as a recipient of
14 that information that the company, you know, to do
15 it for 10 years, my belief is that it was considered
16 to be perfectly appropriate.

17 Q. Why was there such a lack of transparency
18 with regard to all the communications about these
19 recovery goals?

20 MS. ZHORDANIA: Foundation. Argumentative.

21 A. I am not sure -- well, I guess could you
22 clarify what you mean by a "lack of transparency."

23 Q. Yeah. The recovery plan expectations
24 that were communicated by Ms. Griffin to you, the

1 communication was done orally; correct?

2 A. Yes.

3 Q. It was done in one-on-one meetings; correct?

4 A. Sometimes.

5 Q. Most times?

6 A. I'll stick with sometimes.

7 Q. All right. I'm -- all right.

8 I don't know if you're remembering. I
9 don't know if you're giving your best guess, but I
10 want to make sure is it your testimony that, let's
11 say, as many times as not, Ms. Griffin would convey
12 to you the recovery plan expectations in the
13 presence of other people?

14 A. I really don't recall. Certainly there
15 were many times when she did it with just her and I
16 together. I believe that she also did it when my
17 peers were present, so other AVPs. If I had to say,
18 I would say that more than half the time she did it
19 with just she and I, but I would say that that
20 reflected efficiency versus a lack of transparency,
21 because I didn't need to know the details of
22 everything for my peers, and they didn't need to
23 know it for me.

24 Q. And you communicated the recovery

1 expectations to your Directors orally; correct?

2 A. Yes.

3 Q. One-on-one?

4 A. Generally.

5 Q. Typically behind closed doors?

6 A. No. Actually my office didn't even have a
7 door.

8 Q. What about the pods?

9 A. The?

10 Q. Pods. Ms. Wetton said pods. The doors
11 were closed. The door would be closed.

12 A. We certainly had meeting rooms with closed
13 doors, but it -- I didn't seek out rooms with doors
14 to communicate information. You know, the way or
15 the circumstances under which I communicated the
16 information you're talking about to my Directors
17 were in conjunction with what we called one-on-one
18 meetings. So the purpose of these meetings was
19 between myself and a given Director. We would talk
20 about a variety of topics, relative to the Director,
21 to their team, to DBS personnel issues, so a variety
22 of information that, as a general statement, would
23 be appropriate to talk about behind closed doors.

24 So the circumstances of my communicating

1 the recovery expectations were as part of those
2 meetings, but it -- I guess, I'm distinguishing that
3 that's the circumstance that resulted in it being in
4 a room with a door closed as opposed to, you know,
5 my seeking out a room with a door specifically for
6 the purpose of communicating the recovery
7 expectations.

8 Q. When Ms. Griffin would give you the
9 recovery plan expectations orally, you would write
10 down the numbers; correct?

11 A. Yes.

12 Q. But you would not keep a written record;
13 correct?

14 A. Keep for what period of time?

15 Q. After that month has passed and you're
16 into the next month; correct?

17 A. So the numbers were updated each month,
18 and so it was generally my practice that as a new
19 month started I would retain that information
20 because the information that I had previously been
21 provided with was now out of date.

22 Q. So you wouldn't keep a record; correct?

23 A. Not from month to month. Correct.

24 Q. And the Directors were expected to do the

1 same, correct, write down the numbers as you would
2 give them to them one-on-one and not keep them after
3 that month passed?

4 MS. ZHORDANIA: Objection. Argumentative.
5 Compound and foundation.

6 A. I would say that the Directors were
7 expected to follow the same practice I did, which is
8 when you receive updated information, there's no
9 longer a need to keep the outdated information and
10 so you don't keep it.

11 Q. The CIS, the change in status printouts
12 with reserve dollars that you would get from
13 Ms. Griffin or her administrative assistant, you
14 would shred those after each month; correct?

15 A. It was our practice to shred any documents
16 that had any personal or identifying information, so
17 any document that had a claimant's name or policy
18 number, or date of birth, Social Security number,
19 anything that could be, you know, identified to a
20 particular person, it was our practice, I think the
21 company's practice that that, you know, the
22 appropriate way to dispose of that information was
23 to put it in a bin that was locked and later picked
24 up for shredding.

1 Q. Well, you keep claim files, don't you?
2 You don't shred those, do you?

3 A. Well, the claim files are electronic.
4 They were generally for most of my time in the claim
5 organization, they were not paper files. They were
6 electronic files.

7 Q. Which raises the question why is this all
8 verbal? Why is this not electronic?

9 MS. ZHORDANIA: Why what?

10 MR. DAWSON: Well, what we just have been
11 talking about.

12 MS. ZHORDANIA: Are you referring to CIS
13 reports?

14 MR. DAWSON: I am referring to the plan
15 recovery expectations and the CIS written reports
16 with reserve information on it. Well, those are
17 written; you're shredding, but the recovery plan
18 expectation reports. Well, why verbal?

19 MS. ZHORDANIA: Object as to compound and
20 vague. I'm not sure I understand the question, but
21 if you understand it, go ahead.

22 THE WITNESS: I'm not really sure. I can
23 only tell you that that's what the practice was
24 throughout my tenure in claims. I don't know

1 why -- you know, I can't say for sure why some
2 information was verbal and some wasn't.

3 BY MR. DAWSON:

4 Q. Well, why did you choose to convey this
5 information verbally to your Directors?

6 MS. ZHORDANIA: Asked and answered.

7 A. I was following the same practice that my
8 manager took with me.

9 Q. Well, were you instructed that that's how
10 you should do it?

11 A. Probably, yes.

12 Q. You say you're following the same practice
13 that your manager had done. You were following the
14 practice that you understood to be Unum's policy in
15 this regard; correct?

16 A. I don't know that I --

17 MS. ZHORDANIA: Foundation.

18 A. -- had a broader understanding other than
19 what I was involved with and observed. So my
20 manager chose to do it a certain way, to provide the
21 information a certain way, and I followed suit. I'm
22 not sure what other Vice Presidents did or did not
23 do, if they did the same thing, if they provided it
24 in writing, I'm not sure.

1 Q. Well, over your ten years as AVP, did you
2 ever come to learn or hear of anyone doing it a
3 different way?

4 A. No. I reported to Ms. Griffin for my
5 entire tenure, so I never really had exposure to
6 another Vice President's way of doing it.

7 Q. As did other AVPs, they reported to
8 Ms. Griffin; correct?

9 A. Did other AVPs report to Ms. Griffin?
10 Yes.

11 Q. You had something -- you had weekly
12 tracking documents. Do you remember those?

13 A. I remember that term, yes.

14 Q. Yeah, let me ask you about these.

15 MR. DAWSON: We'll mark that.

16 (Document was marked Exhibit No. 3 for
17 identification.)

18 MS. ZHORDANIA: Is this exhibit?

19 THE COURT REPORTER: Three.

20 MR. DAWSON: Three.

21 BY MR. DAWSON:

22 Q. So, if I can find my copy. Do you have a
23 Bates label of ten at the bottom of the page number?

24 Is there a Bates number?

1 A. I don't see that.

2 Q. It's right here.

3 A. Oh, okay. Yes, now I see it.

4 Q. And the language right above the Bates
5 label indicates that "The financial metrics
6 contained in this report reflect general business
7 projections based on the company's historical
8 experience, adjusted for its current business
9 composition and outlook. They represent broad
10 guideposts only, and do not constitute any form of
11 denial or closure targets. They may not be used to
12 determine the outcome of a particular claim, each of
13 which must be evaluated on its own merits without
14 regard to any general or specific business plan
15 projections. These metrics are intended for those
16 with managerial accountabilities only and are not
17 intended for and should not be shared with
18 Disability Benefits Specialists."

19 Did I read that correctly?

20 A. I believe so.

21 Q. All right. You would have the weekly
22 tracking reports available electronically; correct?

23 A. Yes.

24 Q. And when you would look at the weekly

1 tracking report on the screen, would that language
2 that I read be obscuring the substance, the data in
3 the report as it is here?

4 A. Would it be obscuring it?

5 Q. Obscuring it? Covering it?

6 A. Oh, I see --

7 MS. ZHORDANIA: Foundation.

8 A. -- because the type is encroaching on the
9 report?

10 Q. (Nods.)

11 A. I don't recall.

12 Q. I mean it's more than encroaching on the
13 report. It's hiding the last line of information;
14 correct?

15 MS. ZHORDANIA: Objection. Argumentative
16 and foundation.

17 Q. Well, I'm not arguing. I'm asking isn't
18 that true?

19 A. It appears that the statement that you
20 read is obscuring part of the information on the
21 report.

22 Q. Okay.

23 A. I don't -- I presume that when I could
24 view it online that was not the case, but I have no

1 personal recollection of that.

2 Q. Do you believe you would recall if you
3 went to look at a report and you couldn't read what
4 you wanted to read because that language was
5 covering it?

6 MS. ZHORDANIA: Objection. Argumentative.
7 Asked and answered.

8 A. That makes sense. I just don't recall.

9 Q. When you would view the weekly tracking
10 document online, was that language that I just read
11 anywhere on the report?

12 A. You know, I presume that this is an
13 accurate copy of what the report was, so if that
14 language is appearing on this document, I presume
15 that it appeared on the screen. I assume this is a
16 print of what the screen or the report looked like.

17 Q. Do you have a recollection sitting here
18 today when you would review the weekly tracking
19 document on the screen of there being that admonishing
20 language that I read on the document on the screen?

21 A. I don't recall one way or the other.

22 Q. And then you certainly don't recall if
23 sometimes it would be in a different place like
24 overlapping some of the data on the report --

1 A. Correct.

2 Q. -- correct?

3 You recall the scorecards, the balance
4 scorecards?

5 A. I remember that term, yes.

6 Q. All right. Do you recall if this same
7 language was on the scorecards when you looked at
8 those on the screen?

9 A. I don't recall.

10 Q. You were expected to be aware of the
11 actual recovery results, month to month; correct?

12 A. Yes.

13 Q. And consistency in the results was
14 preferred; is that fair to say?

15 A. Consistency in?

16 Q. The recovery results?

17 A. As they related to the historical
18 expectations?

19 Q. For month to month.

20 A. The expectation was that the achievement
21 of the results in a given month compared to the
22 expectations for that month that that ratio or that
23 percentage would be consistent from month to month
24 as opposed to the pure results in a given month

1 being consistent from month to month because they
2 varied from month to month.

3 Q. The plan numbers varied from month to
4 month?

5 A. Yes.

6 Q. Is it not the case that you were encouraged
7 to have consistent and predictable operational
8 results month to month?

9 A. Yes, that is true.

10 Q. All right. And part of the operation
11 results includes the recovery results?

12 A. Yes.

13 Q. Okay. And that is because recoveries
14 affected the report of the company's -- of the
15 company's monthly and quarterly financial results;
16 correct?

17 MS. ZHORDANIA: Foundation.

18 A. I don't know the details, but my
19 understanding was that the -- that our performance
20 in that area was one of many things that impacted
21 the line of business, and, in turn, the company's
22 reporting of results, yes.

23 Q. All right. And reporting financial
24 results, and, you know, the investment community,

1 Wall Street, prefers a degree of predictability?

2 MS. ZHORDANIA: Foundation.

3 A. I've been told that, yes.

4 Q. All right. And this concept of consistency
5 is even part of how your Directors' performance
6 would be evaluated. Do you recall that?

7 A. Yes.

8 Q. This desire for consistency in meeting the
9 monthly recovery and targets -- well, strike that.

10 If you -- if a recovery target has been
11 made for the current month, and if there are any
12 additional recoveries that month, that same month,
13 the recording of those recoveries in Unum's internal
14 system would sometimes be delayed until the
15 following month; true?

16 A. I would agree with that except to the
17 extent that you categorized them as targets, and I
18 would not.

19 Q. All right. If the recovery plan number
20 had been made for the current month, and if there
21 are any additional recoveries that month, the
22 recording of those in Unum's internal system would
23 sometimes be delayed until the following month; is
24 that true?

1 A. Yes.

2 Q. And that practice would help the paid
3 recovery metrics to be more consistent from month to
4 month; correct?

5 A. Yes.

6 Q. And it would also help with making the
7 recovery goals and expectations that you had and
8 Directors underneath you had for the next month;
9 correct?

10 A. If the recording of the recovery in our
11 internal system was delayed into the following
12 month, then that would count toward the recovery
13 plan for that following month.

14 Q. Right. In essence, giving you a head
15 start on meeting the plan or expectation for the
16 next month, you'd agree?

17 A. Yes.

18 Q. Okay. Now, you were terminated from Unum
19 in October of 2016?

20 A. Yes.

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED] [REDACTED]
5 [REDACTED] [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
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12 [REDACTED]
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16 [REDACTED]
17 [REDACTED]
18 [REDACTED] [REDACTED] [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 Q. All right. I mean you had been doing it,
2 delaying the recording under the circumstance we've
3 discussed, because it would help you meet the
4 numbers that were given; correct?

5 MS. ZHORDANIA: Objection. Foundation.

6 A. As you stated earlier, we were encouraged
7 to have consistent and predictable results --

8 Q. Yeah.

9 A. -- and so one way to help accomplish that
10 was to smooth out the results from month to month
11 and so one benefit of delaying the recording of the
12 claim recovery in our internal system was to help
13 with that and I want to be clear that I'm speaking
14 only about the delay in our internal system. So
15 there was no delay, no adverse impact to the
16 claimant in any way. They received their payment.
17 They received notification of their claim status.
18 They received everything that they should have on a
19 timely basis in realtime. The only delay was with
20 respect to how it was recorded in our internal
21 payment system.

22 Q. All right. With that though, you would
23 delay the recording in the system that would assist
24 in meeting the expectations of your superiors;

1 correct?

2 A. I think that's a fair statement, yes.

3 Q. And this was something that during the
4 10 years that you were AVP of Claims occurred on a
5 fairly regular basis; correct?

6 A. That's my belief, yes.

7 Q. All right. That practice had been true
8 throughout your 10 years in the claims organization,
9 would you agree?

10 A. Yes. Not just by me, but as by peers as
11 well.

12 Q. All right. How did you originally learn
13 of the practice?

14 A. I can't recall specifically, but I, you
15 know, I would have to assume that it came from my
16 manager as far as, you know, I'm starting a new role
17 and what are the various expectations of that role,
18 and I think one of the aspects of that would have
19 been relative to achieving the consistent and
20 predictable results, and if it was a situation
21 where -- where in your earlier example, you know, on
22 the next to last day of the month, the expectation
23 had been met, that it was acceptable to delay the
24 recording of the results on the last day of the

1 month to the following month, and that made sense to
2 me because it was not unlike some things that I had
3 seen in other areas of the organization. For
4 example, when I was in underwriting, you know, the
5 sales organization would do that sometimes in
6 respect to their monthly or quarterly or annual
7 sales expectations, there would be a delay in when
8 that business was recorded on the books, and so
9 applying that same logic to my role in claims made
10 sense to me.

11 Q. Okay. And I'm told I think I have about
12 nine minutes left, so if you could -- and if you
13 need long answers to answer my question, then so be
14 it, but I'd ask that you try to focus just on
15 answering the question so I could --

16 A. Is that nine minutes before the tape
17 expires or nine minutes before the end of the
18 deposition?

19 Q. Oh, the tape. Oh, okay. I thought you
20 were saying we were out of time.

21 MS. ZHORDANIA: You are out of time. Nine
22 minutes.

23 Q. I'm glad you asked that question.

24 A. Can I vote?

1 Q. I thought that went really fast.

2 A. Can I vote on which of the ones it is?
3 No? Apparently not.

4 MR. DAWSON: Yeah, I'm so glad we got that
5 clarified.

6 MS. ZHORDANIA: Whenever it's a convenient
7 time.

8 MR. DAWSON: Now's a convenient time.

9 MS. ZHORDANIA: Okay.

10 MR. DAWSON: Now that I know that we have
11 time for a break. Yeah.

12 THE VIDEOGRAPHER: We are off the record
13 at 3:19 p.m.

14 (Short break taken.)

15 THE VIDEOGRAPHER: We are on the record at
16 3:29 p.m.

17 BY MR. DAWSON:

18 Q. Mr. Peter, before we took a break, you had
19 said that you believed that you had learned of the
20 practice of waiting to record a recovery on the
21 system the next month under the circumstances we've
22 already talked about that you believe from your
23 manager that that's where you would have learned
24 that; correct?

1 A. I mean that's my recollection. It
2 wouldn't be something I would just independently
3 come up with, so.

4 Q. You wouldn't have decided to have just
5 done that on your own?

6 A. No. Or yes, correct.

7 Q. All right. And the manager at the time we
8 discussed before was Ms. Griffin; correct?

9 A. Yes.

10 Q. Did you learn in terms of how to -- how to
11 do this, and by that, I mean, details of well,
12 whether should you go ahead and communicate to the
13 insured that his or her benefits were ending or wait
14 until the next month to communicate it to them, I
15 mean were these details explained to you in terms of
16 how to do this?

17 A. I don't recall that being the case, but as
18 I said earlier, you know, the only delay was in our
19 own internal system --

20 Q. I --

21 A. -- so there was no reason to delay anything
22 with the claimant.

23 Q. I understand that you explained how it was
24 happening, and my question is was it explained to

1 you these kinds of details in terms of how to
2 execute this or carry it out or were those details
3 something that you came up with on your own?

4 MS. ZHORDANIA: Vague.

5 A. I don't recall, you know, being given
6 instructions on that level of detail. I would just
7 say, you know, the expectation was that we provided
8 as timely service and decisions as we could, and so,
9 since we're talking about two separate things, since
10 one didn't impact the other, meaning the speed at
11 which we got back to the claimant didn't impact the
12 internal accounting, if you will, that I don't
13 recall being instructed, but there would be no
14 reason to delay anything with the claimant.

15 Q. Okay. When you say you would delay
16 recording it on the internal system, specifically
17 what system are you talking about?

18 A. I'm talking about our internal claim
19 payment system that would --

20 Q. Is that OMAR or?

21 A. I know OMAR was a system. I honestly
22 don't remember what the name of the system was. I
23 think it was -- there were different payment systems
24 I want to say PACE and CAPS were payment systems,

1 but I honestly don't remember what system is
2 relevant here.

3 Q. And when you talked about one of the
4 things that delaying the recording in the system
5 would accomplish would be to meet -- help get a jump
6 start on meeting the recovery plan for the following
7 month, would it be correct that that would also help
8 that particular Director get a jump start on meeting
9 his or her recovery plan for the next month?

10 A. Yes.

11 Q. Were the Directors aware underneath you
12 that there would sometimes be a delay in recording
13 on the internal system the recovery?

14 A. They were the ones doing it, so I was not.
15 I was aware of it, but I didn't personally do
16 anything with the claim payment systems, so.

17 Q. All right.

18 A. The fact that the Directors are the ones
19 who would do that would indicate that they were
20 aware of it, because they were doing it.

21 Q. All right. Makes sense.

22 So was there a -- just an understanding
23 that amongst the Directors under your supervision
24 that if the recovery plan numbers had been met at

1 some point in the month, to then delay the recording
2 of any additional recoveries for that month until
3 the next month in the system?

4 A. I think it was a generally understood
5 practice, and I think it goes back to what we spoke
6 about before being the expectation of, you know,
7 consistent and predictable results and so.

8 Q. You're saying that's the reason for the
9 understanding?

10 A. In part, yeah, it's the reason, but it
11 also is consistent with that in the sense that it
12 was -- it was known or accepted that -- well, let's
13 take the example of, you know, let's say that
14 every -- for the sake of argument, let's say that
15 every month the recovery expectation was a reserve
16 release of \$2 million, just as a hypothetical. It
17 was understood and conveyed through the use of this
18 consistent and predictable expectation that it was
19 better to, in that example, achieve \$2 million every
20 month, than it would be to achieve one million this
21 month and 3 million next month and 4 million the
22 next month and none the next month. So the
23 objective of having it be consistent and predictable
24 was what was valued.

1 Q. By the company?

2 A. That was my understanding, yes, and by my
3 manager.

4 Q. And it would -- there were two aspects of
5 the measurement of your performance and your
6 Director's performance that this impacted. One was
7 are you having consistent results; correct?

8 A. Yes.

9 Q. We talked about that actually as in the
10 performance evaluations consistency and results;
11 correct?

12 A. Yes.

13 Q. And the other aspect is and are you -- are
14 your actual numbers meeting the plan numbers;
15 correct? It would impact both of those?

16 MS. ZHORDANIA: Objection. Foundation.
17 Misstates prior testimony.

18 Go ahead.

19 A. I guess I view them as being related, not
20 two separate things but just two sides of the same
21 coin.

22 Q. Well, or maybe stated differently, if you
23 are -- if you are meeting one of the measurements,
24 then you're necessarily meeting the other one. Is

1 that another way to say it? If I'm meeting the
2 measurement that I have consistent -- well, let me
3 take that back.

4 You could have consistent results but
5 they're falling short of plan; correct?

6 A. Sure.

7 Q. So you want -- ideally you want to meet
8 plan expectations and the consistency expectations?

9 A. Yes, that's accurate.

10 Q. All right. And so as you believe you
11 learned this from your manager when you began, did
12 the Directors learn this underneath you from you?

13 A. Probably to some extent, but in many cases
14 or probably the majority of cases, the Directors who
15 reported to me had been in that role prior to my
16 joining the claims organization; so, I don't recall,
17 you know, instructing them or advising them to do
18 this so much as it was already part of their
19 practice because they were already in those roles.

20 Q. All right. And did you have over your
21 10 years as an AVP in Claims, did you have Directors
22 come into your -- what would you call your group, an
23 organization? A team?

24 A. Either.

1 Q. You didn't have a name for it?

2 A. I think we called it an AVP team.

3 Q. Okay. Would you have Directors come
4 into -- I'm sorry -- you had Directors come into
5 your AVP team who had been working in other AVP
6 teams? That's a P.

7 A. Yeah, I believe that is true.

8 Q. All right. And those Directors that, you
9 know, migrated in from other AVP teams, did you ever
10 have to instruct any of those on this practice of
11 delaying the recording of a recovery?

12 A. I may have. I don't specifically recall
13 instructing them, but, again, since it appeared to
14 be fairly common practice, it didn't seem to be
15 needed to be instructed.

16 Q. All right. And you mentioned that you
17 didn't need to instruct the Directors on the
18 practice because in some instances the Directors had
19 been in their roles for years before you came in as
20 AVP in Claims; correct?

21 A. Yes. I don't know if it was years but
22 some period of time.

23 Q. Some period of time, which would tell you
24 that the Directors had been doing this for some

1 period of time before you came on as AVP; correct?

2 A. I think that's a logical assumption.

3 Q. All right. Was there any understanding
4 that there was a number of claims beyond which you
5 shouldn't delay recording. Do you understand what
6 I'm asking?

7 A. No.

8 Q. So hypothetically, let's say that
9 the -- what would be a typical plan recovery number
10 for your AVP team?

11 A. In a given month?

12 Q. In a given month.

13 A. Let's say 60 claims.

14 Q. All right. Let's say that's your plan
15 number in a given month, and, in fact, you hit 60
16 claims, you know, at the halfway point, which means
17 it looks like this particular month you're going to
18 be on track to, you know, 90 or 100. Was there an
19 understanding that there's a number of claims beyond
20 which you shouldn't delay recording with that
21 explanation?

22 MS. ZHORDANIA: Vague.

23 MR. DAWSON: Still?

24 A. I guess first I would say, in practice, it

1 didn't happen that, you know, halfway through the
2 month you were -- you know, it was more --

3 Q. Right. And I was purposely making extreme
4 examples so you would understand my question.

5 A. Yeah, it was more like a day or two before
6 the end of the month; so, I don't recall there
7 being -- it sounds like your question is was I
8 instructed or told that I shouldn't exceed a certain
9 number of claims?

10 Q. For example, yeah.

11 A. I don't recall that being the case.

12 Q. And same question, and I assume same answer
13 in terms of dollar amount of reserves?

14 A. I guess what I would say again is that
15 because of the emphasis on consistency and
16 predictability, there was no benefit to far
17 exceeding a given month's expectations. There was a
18 much greater benefit to carrying that over a couple
19 of days and having it count toward the following
20 month.

21 Q. All right. Because it is in the
22 interest -- it's more in the interest of, for you as
23 the AVP being evaluated for the Director's performance
24 evaluations to meet their consistency and plan

1 expectation numbers each month than to exceed them a
2 lot by one month and then not make them in a month?

3 A. Right. That's the example I was trying to
4 give before when I said if it was \$2 million a
5 month. So, again, there was a much greater benefit
6 to delaying that day or two in carrying it over than
7 there was to exceeding and not carrying it over; and
8 again, since there was no detriment to the claimant,
9 it just seemed to be the practice.

10 Q. Was there -- did the practice include --
11 strike that.

12 Did you separately track the actual paid
13 recoveries for the months in which they happened
14 even though they may be delayed in being recorded in
15 the system?

16 MS. ZHORDANIA: Vague. Foundation.

17 A. Can you clarify that. I just want to make
18 sure I understand.

19 Q. Yes. So if on the 28th of the month,
20 you've met the plan number for recoveries, so now
21 you're going to delay any additional ones to record
22 in the next month, was there a practice, however,
23 someplace, somewhere to note the number of
24 recoveries beyond the 28th in the month that they

1 actually happened?

2 A. Not to my recollection, no.

3 Q. Okay. When you were informed of this
4 practice, was it done in a way as to suggest to you
5 that you should not disclose that this is happening.
6 You shouldn't disclose this is happening?

7 A. To whom?

8 Q. Well, I started to say to others, but we
9 know you're disclosing it to some Directors. To
10 anyone? When you came to understand this practice
11 of delaying the recording, did you come to understand
12 that the expectation is this would not be disclosed
13 to -- is there anyone you came to understand this
14 should not be disclosed to?

15 A. Really anything to do with the recovery
16 expectations, be they count or dollar reserve
17 information or practices surrounding that, the
18 expectation was that none of that be discussed
19 directly with the DBSs, and the premise was that,
20 you know, similar to the wording that you read
21 earlier about on that report, you know, each claim
22 should be evaluated on its own merits. The metrics
23 were provided as historical guidance and not
24 intended to be targets and everything else that that

1 wording said.

2 So since the DBS's job was to really just
3 adjudicate their own claims, there was no -- no need
4 or there was no reason to communicate anything about
5 any kind of recovery expectations or the methods how
6 they were accounted for. There was no reason to
7 talk to the DBSs about any of that.

8 Q. All right. Well, what about did
9 Ms. Griffin or anyone else caution you don't let
10 upper management know that this is going on; for
11 example, don't let Mr. McGarry know that you're
12 doing this, that we're doing this?

13 A. I don't recall one way or the other her
14 talking about that.

15 Q. Okay. Or do you recall ever it being
16 suggested don't let Nancy McGee know that this
17 practice is happening?

18 A. I don't recall either way.

19 Q. Over your 10 years as AVP of Claims when
20 the practice was going on, did you have reason to
21 assume that management higher than Ms. Griffin were
22 aware of the practice?

23 MS. ZHORDANIA: Did you say VP of Claims
24 or AVP of Claims? I thought you said VP.

1 Oh, okay. Sorry.

2 A. I guess since it seemed to be an accepted
3 practice, and since the discussion of and
4 expectations of consistent and predictable results
5 came not only from Ms. Griffin but from people
6 higher than her, it made sense to me that they were
7 well aware of what was going on.

8 Q. Was the manner in which you were doing
9 this delaying the recording of recoveries prior to
10 your being terminated, was it ever -- were you ever
11 criticized for it?

12 A. Not that I recall.

13 Q. Was the practice ever critiqued in any
14 fashion?

15 A. Not that I recall.

16 Q. And by that I mean, you know, someone
17 evaluating your performance that you're doing this
18 correctly; you're incorrectly?

19 A. Not that I recall, and to the contrary, I
20 would generally receive favorable performance
21 feedback on the fact that my recovery results were
22 consistent and predictable from month to month or
23 quarter to quarter.

24 Q. All right. And you would get that feedback

1 from who or what source?

2 A. From my manager, Ms. Griffin.

3 Q. All right. Did anybody else sign off on
4 your performance evaluations?

5 A. Not literally sign off, meaning when I saw
6 the electronic document, it had only Ms. Griffin's
7 signature. Whether she reviewed them with her boss,
8 that boss didn't literally physically sign off on it
9 with their signature, but whether they reviewed it
10 or were aware of it, I can't say.

11 Q. All right. So the goal for consistency
12 was something that was -- was a goal that was shared
13 by I think we've discussed the Directors underneath
14 you; correct? I don't want to make this a long,
15 compound question.

16 A. It was not shared by them to their team,
17 but it was shared in that they were aware of it.

18 Q. Okay. What I'm asking is the goal of
19 having consistent recovery metrics was a goal of the
20 Directors?

21 A. Yes.

22 Q. And it was a goal of the Vice President of
23 Individual Disability Claims as well; correct?

24 A. Yes.

1 Q. And it was a goal above her position as
2 well?

3 MS. ZHORDANIA: Calls for speculation.
4 Foundation.

5 A. I don't know, but I presume so.

6 Q. Okay. It was a goal for other AVPs of
7 Claims as well?

8 A. Yes. I think the standards that I was
9 evaluated against were consistent for anybody at the
10 same level as I was, so any other AVP.

11 Q. In the performance evaluations, where one
12 will see, you know, mention of having consistent
13 results, would I be correct that that particular
14 measurement is coming from higher than your
15 position?

16 MS. ZHORDANIA: Foundation. Calls for
17 speculation.

18 Q. You are not the one to decide, you know, I
19 think I'll put in the performance evaluation of my
20 Directors that we want consistency in the operational
21 metrics?

22 A. Correct. I did not put that in.

23 Q. It came from higher than you?

24 A. Yes.

1 Q. Okay. Was the practice, you know, delaying
2 recording recoveries until the next month ever a
3 subject of discussion in any meetings you were at?

4 A. It may have been. I can't recall
5 specifically whether it was or was not.

6 Q. Okay. You knew that this practice
7 was -- you were necessarily involved in manipulating
8 the numbers; correct?

9 MS. ZHORDANIA: Misstates prior testimony.

10 A. I don't want to say "manipulated." I
11 would say just to be consistent that it was a delay
12 in recording them on our internal system, so.

13 Q. Well, manipulating in the sense that when
14 this was done, if somebody had looked at the month
15 of November and saw there's "X" number of recoveries
16 that month, but, in fact, because of the practice,
17 there was not "X" number of recoveries, it's in that
18 sense the number that one's looking at has been
19 altered, manipulated. I'm not looking for a
20 pejorative term. I just don't know how else to put
21 it.

22 A. Yeah, I guess, manipulated, and maybe this
23 is my own bias, but manipulated to me implies some
24 type of intent to deceive, and so that's why I'm

1 objecting to the term; but so it was altered, I
2 think is a fair term, but not done in such a way as
3 to deceive anyone, and, in fact, done in a way that
4 was consistent with how it was generally done.

5 Q. All right. But it was done with an intent
6 to make the numbers look better in terms of a
7 consistent -- on a consistent level; correct?

8 MS. ZHORDANIA: Foundation and -- actually
9 withdraw that objection.

10 Go ahead.

11 A. It was done with an intent to what I would
12 say smooth out and help achieve the numbers from
13 month to month.

14 Q. All right. The intent was to smooth the
15 numbers over time, the results over time?

16 A. In order to achieve the expectation that
17 they be consistent and predictable.

18 Q. Did it strike you or does it strike you
19 sitting here today that even though you didn't do
20 this with the intent of I think you said deceiving
21 anyone or hurting any insured, that it was, in fact,
22 not an honest accounting of the numbers?

23 A. Well, first of all, not only was it not
24 done with the intent to hurt an insured, but, in

1 fact, it did not hurt an insured. So I just want to
2 clarify that.

3 But as to whether it was honest or not, I
4 guess I didn't think a lot about that, and the
5 example I gave previously that other areas of the
6 company, such as the sales organization, having
7 familiarity with them during my time in underwriting,
8 so I don't know that I'd characterize it as honest
9 or dishonest as compared to just the way the
10 business was done.

11 Q. Well, and it's the way business was done
12 in an effort as to meet the expectations and the
13 plan numbers?

14 A. I mean, as I said, it was beneficial to
15 help achieve the consistent, predictable results to
16 sometimes carry forward the recovery in the internal
17 system to the following month. It was more beneficial
18 to do that than to not.

19 Q. In doing this, you necessarily would know
20 that the recovery numbers that are added into the
21 following month -- well, the recovery numbers taken
22 from the existing month that you're not going to end
23 up with -- one's not going to be looking at accurate
24 numbers in terms of when recoveries actually

1 happened; correct?

2 A. I would say it's, you know, since the
3 practice was consistent, then I would argue that
4 the -- you're looking at when they actually happened
5 as in when they were actually recorded --

6 Q. Right.

7 A. -- not when they actually occurred as in
8 the communication to the insured, but since the
9 practice was consistent from month to month and over
10 time, I think it was an accurate representation
11 because it wasn't a situation where people, you
12 know, did it one way one month and a different way
13 the next month and yet another way the third month.
14 It was done consistently, so the information from
15 that standpoint was accurate.

16 Q. Because consistently on a widespread
17 basis, it was done the same way over time; is that
18 what you're saying?

19 A. That's what I believe, yes.

20 Q. All right. Can you think of any reason
21 that upper management would not have known it was
22 being done?

23 MS. ZHORDANIA: I guess vague as to which
24 upper management, but go ahead.

1 Q. Fair enough. And just to be more specific,
2 can you think of any reason that management at the
3 Mr. McGarry level and/or above would not know that
4 this was being done?

5 A. Well, as I said, the practice existed
6 prior to my joining the organization. Some of the
7 upper level management that you're speaking of were
8 upper management in claims during the time that
9 preceded my joining the organization in 2006.

10 While I can't speak to what they did or
11 didn't know, it would seem unlikely to me and naive
12 of them to think that this wasn't occurring or that
13 their messaging of consistent and predictable
14 results would not, in turn, have the effect that it
15 had.

16 Q. The effect of?

17 A. Of delaying the recording of the results.

18 Q. To meet the goals and expectations that
19 were on everybody in the claims operation, and I say
20 everybody loosely?

21 A. Yeah, what I'm saying is it seems unlikely
22 to me without having personal knowledge of what they
23 did or didn't know, it seems unlikely to me that
24 they would not be aware that that was occurring on

1 some basis. It seems unlikely to me that they would
2 not understand that the achievement of the
3 consistent and predictable results was, in part, due
4 to the fact that that was the objective. So it
5 seems naive for me to think that they would have
6 this expectation and not understand the implications
7 of how that meant the business was run.

8 Q. Right. So if an expectation or a goal is
9 placed on the Vice President of Individual Claims,
10 the AVPs of Claims and the Directors of Claims to
11 meet the plan results and to do so consistently,
12 that that goal or expectation, if I'm understanding
13 what you're saying, is what's driving this reporting
14 practice?

15 A. I'm saying that, in my opinion, it would
16 be naive for the senior management to not have an
17 understanding that what they communicated for goals
18 and objectives did not -- did not result in this
19 behavior.

20 Q. And -- okay. Okay. So what's your
21 understanding as to why you were fired?

22 [REDACTED]

23 MS. ZHORDANIA: Asked and answered.

24 Go ahead.

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 Q. Do you know was Mr. Zabel, was he within
13 the Benefits Operation?
14 A. As I said, I forget his exact title. I
15 want to say he was President of a particular
16 division, whether that was closed block or what, I'm
17 not -- I don't recall.
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] [REDACTED] [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED] [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 Q. Yeah, I'm going to interrupt you for a
17 second. Was that unusual that the internal audit
18 department would review some --

19 A. I would say so. Yes, it was unusual.

20 Q. Okay.

21 A. Well, let me clarify. I suspect that as
22 part of their normal duties that they routinely
23 reviewed practices, but I would say what was unusual
24 was that I was aware of it specifically about in

1 that time frame and what they were doing. I was not
2 typically involved or aware of what they were or
3 weren't doing.

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 [REDACTED]

10 [REDACTED]

11 [REDACTED]

12 [REDACTED]

13 [REDACTED]

14 [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 MS. ZHORDANIA: All right. I'm going to

1 instruct you not to answer anything where you were
2 told by attorneys, your own or one that represented
3 you, attorneys on behalf of Unum, any advice you
4 received from attorneys. So if you can answer that
5 question without disclosing privileged information,
6 go ahead.

7 MR. DAWSON: Well, let me understand what
8 you're instructing him.

9 MS. ZHORDANIA: I'm instructing him not to
10 disclose privileged information. I hope that's not
11 a surprise.

12 MR. DAWSON: Well, what I'm trying to
13 clarify is part of what you said is don't reveal any
14 instructions from attorneys.

15 MS. ZHORDANIA: Correct. Because
16 privilege would be also held by Unum. So I'm not
17 understanding the circumstances under which he was
18 terminated, but to the extent that any attorney as
19 part of investigation spoke with him, Unum would
20 claim privilege as to those as well as anything that
21 Mr. Peter received from his own attorneys.

22 BY MR. DAWSON:

23 Q. All right. We don't need to mark this.
24 This was Exhibit 3, if I'm reading that number

1 correctly, of Mr. Birch's deposition.

2 And this is an Upjohn warning that bears
3 the signature of Timothy Loftus. Do you see that?

4 A. Yes.

5 Q. And was Mr. Loftus terminated also?

6 A. He was terminated, I believe, after I was
7 terminated. So on the day I was terminated, there
8 were several other people who were also terminated.
9 I believe Mr. Loftus was terminated after that.

10 Q. All right. Did you have an understanding
11 that he was terminated for essentially the same
12 basis?

13 MS. ZHORDANIA: Calls for speculation.

14 A. I did not have specific knowledge as to
15 why he was terminated. That, again, happened after
16 I left, and so I'm not sure.

17 Q. All right. Looking at Exhibit 3, which is
18 an Upjohn warning, were you asked to sign a document
19 like this?

20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 [REDACTED]

24 Q. Approximately when? Either how much prior

1 or the date, if you recall it?

2 A. It was a few weeks prior. That's about as
3 specific as I can get.

4 Q. All right. And at that time, reading this
5 document, were you interviewed by an attorney for
6 Unum?

7 MS. ZHORDANIA: I'm going to object and
8 instruct the witness not to disclose anything that
9 could potentially be privileged. Again, I don't
10 know the circumstances, but I'll leave it up to you
11 to --

12 Q. Well, thus far my question just calls for
13 a yes or no. It's not asking for any information.
14 It's just simply asking were you interviewed by an
15 attorney for Unum?

16 A. Yes.

17 Q. Okay. And was that one attorney or multiple
18 people at the time?

19 A. As far as I recall, it was one.

20 Q. And who was the attorney?

21 A. I don't remember.

22 Q. Was it anybody that you had known
23 previously?

24 A. It was someone whose name I knew but not

1 someone I traditionally worked with.

2 Q. Okay. Was the Upjohn warning that you
3 signed, did it contain the same four bullet points
4 as on the one Mr. Loftus was provided here?

5 MS. ZHORDANIA: Foundation.

6 A. I certainly recall signing something that
7 was called an Upjohn warning. Whether it was
8 identical to this or not, I don't know.

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
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16 [REDACTED]
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21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

1 [REDACTED] [REDACTED]
2 [REDACTED]
3 [REDACTED] [REDACTED]
4 [REDACTED]

5 Q. Okay. On the same day that you were
6 terminated, you said there were several other
7 terminations. And who were they?

8 A. As far as I remember, both of the other
9 AVPs in claims were terminated. So I previously
10 mentioned Holly Crawford and Anthony Scuderi, my
11 manager Maureen Griffin, and her manager Nancy
12 McGee. I believe that's everyone who was terminated
13 on that day.

14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED]
21 [REDACTED] [REDACTED]

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12 [REDACTED] [REDACTED]
13 [REDACTED] [REDACTED]
14 [REDACTED]
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16 [REDACTED]
17 Q. Did you seek advice of your own counsel
18 about it?
19 A. Yes.
20 [REDACTED] [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED]

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11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 Q. All right. I'm going to ask you about a
17 couple of just miscellaneous things here, so. One
18 is you moved over to claims soon after the company
19 had entered into the Regulatory Settlement
20 Agreement; correct?
21 A. Yes.
22 Q. And just to get so whoever might be seeing
23 the testimony reading it, the Regulatory Settlement
24 Agreements were entered into in 2004 and 2005. Does

1 that comport with your memory?

2 A. It sounds about right.

3 Q. All right. You go into APV of Claims in
4 2006; right?

5 A. Yes.

6 Q. At the time you went into claims, the
7 claim reassessment process was under way; correct?

8 A. Yes.

9 Q. Did you have any involvement in the claim
10 reassessment process?

11 A. No.

12 Q. The Regulatory Settlement Agreement
13 required Unum to incorporate certain provisions or
14 dictates within the agreement; correct?

15 A. Can you repeat that.

16 Q. Maybe I need a different question.

17 A. Okay.

18 Q. Let me ask this question: Were you
19 involved in any planning discussions about the
20 incorporation of the RSA findings and agreements
21 into the claims operation?

22 A. No.

23 Q. Did you have responsibility for
24 incorporating any of the RSA findings and agreements

1 into how claims were being handled?

2 A. I had responsibility for understanding any
3 changes that were brought about as a result of the
4 Regulatory Settlement Agreement in terms of claim
5 practices, and I was responsible for having a
6 knowledge of claim practices whether they were
7 already existing or whether they had changed as a
8 result of the RSA. I did not have any involvement
9 in drafting them. I was only involved from the
10 standpoint of being responsible for implementing
11 them appropriately.

12 Q. All right. So, for example, in 2005,
13 there was an amendment to the RSA that required
14 that the company extend significant weight to the
15 opinions of treating doctors. Do you know what I'm
16 referring to?

17 A. Yes.

18 Q. Did you take any steps to see that that
19 was happening?

20 A. Yes. That was part of my review of claims
21 that I was asked to review or to weigh in on.

22 Q. Explain what you're saying there.

23 A. So you asked if the requirement that Unum
24 give significant weight to the findings of a

1 claimant's attending physician was something that I
2 was aware of and put into practice in my review of
3 claims, and I'm saying that, yes, so if I were
4 reviewing a claim, and that was a relevant factor
5 for why I was reviewing it, then I would take that
6 into account as the RSA and as our claim guidelines
7 required.

8 Q. All right. Did you take any steps to try
9 to see that others making decisions on claims were
10 applying the significant weight amendment language?

11 A. Others who reported to me, yes. Others
12 who did not report to me, I would not have had
13 involvement with.

14 Q. So Directors that reported to you, what
15 did you do to try to ensure that they were complying
16 with the 2005 amendment about significant weight?

17 A. I would say primarily two things. The
18 first would be, again, if I had occasion to review a
19 claim as part of my responsibilities, then that, you
20 know, that would be one of the aspects that I would
21 look at. And, secondly, one of the primary functions
22 of the QCC that we've talked about whose role was to
23 review claims that the Director was recommending for
24 denial, one of the important roles of the QCC was to

1 evaluate the recommended decision against the
2 requirements of the RSA and the company's guidelines
3 to make sure that they were -- that the decision was
4 compliant with that, which would include, among
5 other things, giving significant weight to an
6 attending physician's decision -- or opinion. Excuse
7 me.

8 Q. So do you believe that the Director,
9 Directors underneath you that would be authorizing a
10 denial or termination of benefits to have the claims
11 then sent on to the QCC, that those Directors
12 should, in the first instance, be applying the
13 significant weight standard of the amendment?

14 A. Yes, it was their responsibility to ensure
15 that the claim was being handled in accordance with
16 Unum's guidelines and practices, which incorporated
17 the aspects of the RSA and so the Director was
18 responsible for ensuring that if it was applicable
19 to a given claim, that significant weight had, in
20 fact, been given to the attending physician's
21 opinion.

22 Q. And was the Director responsible for
23 having the significant weight language from the
24 amendment in mind as they got back the reports from

1 the OSP and/or the DMO?

2 A. I would say yes.

3 Q. All right. Do you know if the on-site
4 physician and/or the dedicated medical officer would
5 be charged with being familiar with the significant
6 weight standard in the amendment?

7 A. None of them reported to me, but my
8 understanding is that they would, in fact, be aware
9 of that, yes.

10 Q. All right. So the Director would be aware
11 of it, the OSP and the DMO, and then sort of the
12 final fail safe would be the QCC, in terms of
13 signing off of an adverse claim decision; is that
14 correct?

15 A. Right. I would say that all personnel
16 handling claims, including all the functions that
17 you just mentioned, would be expected to have an
18 awareness of the guidelines and practices and apply
19 them appropriately.

20 Q. They should be aware of it?

21 A. That was the expectation.

22 Q. One of your on-site physicians, Dr. Philbin,
23 testified that he was unaware of the RSA 2005
24 amendment language. He testified in June 2015 to

1 that effect. Would that surprise you?

2 MS. ZHORDANIA: Objection. Misstates
3 Dr. Philbin's testimony and argumentative.

4 Go ahead.

5 A. It would surprise me that Dr. Philbin or
6 any company physician involved in claims was not
7 aware of the RSA language.

8 Q. Was there concern in the company with the
9 impact that literal compliance with the 2005
10 significant weight amendment would have on claims
11 decisions?

12 A. I don't know.

13 Q. You were not aware of any concern?

14 A. Correct. So I -- if you're asking was
15 there concern, I don't know. I was not aware of
16 concern or none was expressed to me that I recall.

17 Q. When you came in to claims in 2006 and had
18 responsibility for -- I'm sorry. I forget how you
19 worded it, but implementing the RSA standards in the
20 claims handling, did -- well, did you actually see
21 the documents, the Regulatory Settlement Agreement
22 documents?

23 A. I don't know if I saw the actual RSA
24 documents as opposed to just seeing the claim

1 guidelines and practices and any revisions that were
2 a response to the RSA. I don't recall if I saw the
3 actual RSA document.

4 Q. Well, for example, I mean, did you become
5 aware that Unum, you know, essentially had gotten in
6 trouble with the various Departments of Insurance
7 for unfair claims practices?

8 A. So the settlement agreement, the regulatory
9 settlement agreement and the allegations of unfair
10 practices occurred prior to my joining claims --

11 Q. Right.

12 A. -- and so I had an awareness that those
13 were the allegations. I had an awareness that the
14 company had entered into this agreement. Whether
15 the company admitted or not the allegations, I don't
16 know.

17 Q. Do you know the company was fined?

18 A. I'm aware that there was a fine, yes.

19 Q. Okay. Are you aware that the Multistate
20 Market Conduct Examination included findings that
21 Unum was, for example, ignoring evidence that
22 supported payment of a claim?

23 MS. ZHORDANIA: Foundation.

24 A. I know that there were various allegations

1 related to claim handling practices, but not
2 specifically what they were or not specifically
3 that. So that could have been one of the allegations.
4 I just don't know.

5 Q. Do you recall of one of the allegations
6 being Unum not giving appropriate weight to Social
7 Security findings of disability?

8 A. I don't recall that being one of the
9 allegations, but it's logical to me that if that was
10 a change in practice that was implemented after the
11 RSA, where it was stipulated that now significant
12 weight had to be given to the Social Security
13 Administration findings, it makes sense to me that
14 that would have been one of the allegations.

15 Q. Sorry. I'm not understanding that. You
16 say that if that was a change in practice that was
17 implemented after the RSA. Do you know was it a
18 change in practice implemented after the RSA?

19 MS. ZHORDANIA: Foundation.

20 A. I believe it was, yes.

21 Q. Okay. And do you know that the Multistate
22 Conduct Examination was critical of Unum not using
23 independent medical examinations when an on-site
24 doctor disagreed with an attending physician?

1 A. I have some vague knowledge that that was
2 the case but not the specifics.

3 Q. Did you have input into what sort of the
4 general policy would be on your AVT team -- AVP team
5 in terms of when IMEs would be used and when they
6 wouldn't?

7 A. Typically, no. That was a decision that
8 was made at the time of the review by the OSP or
9 on-site physician.

10 Q. Whether a claim is going to recover, the
11 on-site physician will have a significant amount to
12 do with that, would you agree?

13 A. Whether a claim recovers?

14 MS. ZHORDANIA: Vague.

15 Q. Right.

16 A. I guess just to clarify, I would say that
17 whether a claim is denied or not.

18 Q. Denied or terminated?

19 A. Yes. Because there are other types of
20 recoveries that people recover on their own and go
21 back to work.

22 Q. All right. I thought those were
23 resolutions, but anyway.

24 A. Yeah. Okay.

1 Q. So if there's going to be an adverse
2 decision on a claim?

3 A. And if the reason is medically related,
4 which is generally the case, then, yes, the OSP
5 would have significant involvement in that.

6 Q. And in terms of being accountable or
7 having responsibility for meeting the recovery plan,
8 did you have any influence over what the OSPs were
9 doing?

10 A. No, not really. I might have influence
11 over how they might prioritize their work. In other
12 words, if there would be occasion where, let's say,
13 a particular claimant was especially adamant that
14 they wanted a decision as soon as possible and
15 might -- that might prompt me to contact the OSP and
16 ask if he could -- he or she could prioritize that,
17 but I didn't have any influence with regard to their
18 decision.

19 Q. OSPs would sometimes partner with or shadow
20 someone in claims management. Are you aware of
21 that?

22 A. No.

23 MS. ZHORDANIA: Vague. Foundation. And,
24 Steve, can I just ask you how much longer do you

1 think you're going to be. I want to text my
2 secretary.

3 MR. DAWSON: It's a fair question. I
4 think I'm down to one area.

5 MS. ZHORDANIA: Okay.

6 MR. DAWSON: I'm going to guess 15 minutes.

7 MS. ZHORDANIA: Okay. Thanks.

8 MR. DAWSON: What time is it?

9 MS. ZHORDANIA: 4:34.

10 THE VIDEOGRAPHER: What time is it?

11 MS. ROSENTHAL: 4:30.

12 MR. DAWSON: Okay.

13 BY MR. DAWSON:

14 Q. You mentioned that you could have some
15 input, I believe is what you said, with the OSP
16 about maybe prioritizing, getting to certain claims
17 sooner than others; is that correct?

18 A. Yes.

19 Q. Could you do that with regard to claims
20 that were on the change in status list where their
21 status was expected to change to recovery?

22 A. I could have, but I don't recall doing it.

23 Q. Okay. Do you know if anyone did or had
24 the option to let an OSP know to prioritize such

1 claims?

2 A. It's possible. I'm not sure.

3 Q. Okay. Switch gears for a moment. Is it
4 correct that the claim file in a claim should reflect
5 all pertinent, relevant activity that's done on a
6 claim?

7 A. Yes.

8 Q. And, in fact, you know that's typically
9 required by most Departments of Insurance?

10 A. I didn't know that, but that makes sense.

11 Q. All right. And you agree that's something
12 that everyone should know and should do who's
13 working on a claim to document pertinent activities?

14 A. Yes.

15 Q. And would you expect that would be no less
16 true for on-site physicians or DMOs who are working
17 on a claim file?

18 A. I think it would equally apply to anyone
19 involved in the claim.

20 Q. Okay. And it is the case, it is the
21 practice that what is given to an on-site physician
22 to review on a claim, that itself is documented;
23 correct?

24 MS. ZHORDANIA: Incomplete hypothetical.

1 Foundation.

2 Q. What records that they're asking -- being
3 asked to review or that they're being given?

4 A. I mean I think there's some. I don't
5 recall exactly what a DBS might put in their referral
6 to the OSP, but I would think that the OSP is
7 expected to review anything pertinent to the medical
8 decision they're being asked to weigh in on.

9 Q. All right. And you would expect that
10 anything that is being provided to the OSP to review
11 for a claim, one could pick up the file and see what
12 those things are?

13 MS. ZHORDANIA: Foundation.

14 A. Right. Again, as far as what's provided
15 to the OSP, my understanding is that the file is
16 provided to the OSP, not just particular parts of
17 it. So by that anything that's in the file, which
18 we've established should be anything pertinent or
19 relevant, the OSP should have access to.

20 Q. All right. And then the OSP will do a
21 report based upon their -- based upon what they've
22 done. Let me leave it at that. Correct?

23 A. They will provide a written response,
24 summarizing their review and their findings and

1 their opinion on the case.

2 Q. All right. For example, I've reviewed
3 doctor so and so's records and the specialist
4 records and?

5 MS. ZHORDANIA: Foundation.

6 A. I think that would be fairly common, yeah.

7 Q. Okay. And so I guess what I'm asking is
8 what the OSP actually then looks at in his or her
9 review, that should be -- will be documented in the
10 file; correct?

11 MS. ZHORDANIA: Foundation. Asked and
12 answered. Incomplete hypothetical.

13 A. You asked if what they review should be
14 documented?

15 Q. Yes.

16 A. In other words --

17 Q. In their report. Here's what I looked at.
18 Here's my answer to your questions, and here's my
19 opinion.

20 A. I think generally, yes, I can't say for
21 sure that every single document or piece of paper
22 that the OSP looks at would be listed in their
23 report, but the expectation would be that they
24 review everything pertinent to the medical situation,

1 but they may not list every test result that they
2 look at or every finding or.

3 Q. Would you agree that everything they look
4 at that is material to their opinions and conclusions
5 would be -- should be listed in their report?

6 MS. ZHORDANIA: Asked and answered.
7 Foundation. Incomplete hypothetical.

8 A. Again, I would expect that they at least
9 generally summarize the material they looked at.
10 So, for example, if they looked at 100 pages of a
11 medical report that contained, you know, 60 pages of
12 narrative and 40 pages of test results, I would not
13 expect that they would individually list every EKG
14 or X-ray or MRI or whatever the case may be, but I
15 would expect that they would indicate that they
16 have, in fact, reviewed the entire file, inclusive
17 of the various test results.

18 Q. All right. And in speaking of that and
19 what they have reviewed should be within the file;
20 correct?

21 MS. ZHORDANIA: Objection. Foundation.
22 Incomplete hypothetical.

23 A. The claim file should contain anything
24 that's pertinent or relevant to the claim; so, they

1 should be reviewing everything that's in the claim
2 file, and I don't see what -- I can't think of what
3 they might be reviewing that isn't in the claim
4 file.

5 Q. All right. But certainly if they're
6 reviewing something that's not in the claim file
7 that's pertinent, you know, comment should be made
8 somewhere, so somebody picking up that file knows
9 that; correct?

10 MS. ZHORDANIA: Objection. Asked and
11 answered. Foundation. Incomplete hypothetical.

12 A. If that were the case, I guess that's
13 true, but, again, I can't think of an example of
14 something that they would be reviewing that isn't
15 already in the file.

16 Q. Well, for example, if the OSP -- OSPs will
17 often review surveillance video footage; correct?

18 A. Yes.

19 Q. And the surveillance footage is part of
20 the file; correct?

21 A. It is. I want to say that, you know,
22 because it's a physical sometimes a physical disk or
23 whatever, that sometimes it was kept maybe
24 separately, but there was reference in the claim

1 file to its existence.

2 Q. That's what I mean whether there's a link
3 to get to it or a reference that there's surveillance
4 video, so somebody knows whatever file cabinet
5 they're kept in, that the file is self-contained
6 enough to at least convey that; correct?

7 A. Yes.

8 Q. Okay. If an OSP is going to review a
9 prior claim of an insured's from 20 years earlier,
10 should there be either a reference to that fact by
11 the OSP or should that prior claim information now
12 be part of this claim file?

13 MS. ZHORDANIA: Foundation. Incomplete
14 hypothetical, and I also renew my objection
15 regarding a former employee whose testimony would
16 not be binding on defendants on this subject matter.

17 Go ahead.

18 A. I don't think an OSP reviewing a prior
19 claim file would be specifically listed in the
20 documents that they reviewed, but what I would
21 expect, what typically occurred, I believe, is that
22 I have mentioned earlier that the claim files were
23 electronic as opposed to paper, and so typically
24 what would happen is that the prior claim file, so,

1 in your example, the 20-year old claim file, an
2 electronic photocopy would be included in the
3 current claim file and become part of that file.

4 Q. All right. And does it happen sometimes
5 that in a current claim, an older file that was
6 closed years earlier might be retrieved for whatever
7 relevant information in the current claim?

8 A. I would say more often than not if there
9 are prior files or prior claims, those should be
10 reviewed and incorporated into the current claim.

11 Q. All right. And, again, if one picks up
12 the claim file, they can see that that was done?

13 A. That should be the case, yes.

14 Q. Okay.

15 A. There might be some exceptions, but
16 generally, yes.

17 Q. All right. We had testimony yesterday
18 from the OSP on Dr. Biliack's claim that he had
19 reviewed a prior claim of Dr. Biliack's from many
20 years ago, 18 actually. Again, if that was true,
21 consistent with your testimony, you should see
22 reference somehow of that in the file?

23 MS. ZHORDANIA: Objection. Mischaracterizes
24 Dr. Philbin's testimony and calls for speculation.

1 Lacks foundation.

2 Go ahead.

3 A. I would not necessarily expect the OSP to
4 have listed, itemized that he reviewed the prior
5 file, but I would expect that a copy of the prior
6 file generally be included in the current claim
7 file, and therefore, since the expectation is that
8 the OSP review any pertinent medical information,
9 that by extension, the pertinent medical information
10 in the 18-year-old claim file should be included as
11 well?

12 Q. All right. If the OSP chooses to review
13 surveillance from the 18-year-old claim file and
14 believes that the surveillance from 18 years earlier
15 is material or pertinent to the OSP's opinions,
16 would you agree there should be reference to the
17 fact that that has happened?

18 MS. ZHORDANIA: Incomplete hypothetical.
19 Calls for speculation.

20 Go ahead.

21 A. Same answer as I gave previously that I
22 would not necessarily expect the OSP to list that as
23 something that they reviewed. They may or may not,
24 but I would expect that that information be either

1 included in or referenced in the current claim file.

2 Q. So to understand your answer, you're
3 saying that you would expect that the prior
4 surveillance be part of the current claim file;
5 correct?

6 MS. ZHORDANIA: Same objection.

7 A. If it was relevant, yes.

8 MS. ZHORDANIA: Same objection.

9 Q. Okay. Though you might not expect the OSP
10 if he has reviewed the surveillance to note that he
11 had reviewed the surveillance?

12 A. Correct.

13 Q. If the OSP reviewed the prior surveillance
14 and in doing so, influenced his opinion on the
15 current claim, would you not then expect the OSP to
16 note that as part of his review?

17 MS. ZHORDANIA: Objection. Asked and
18 answered. Incomplete hypothetical. Foundation.
19 Lacks foundation.

20 A. I'm not sure, but I think it's reasonable
21 that if the OSP is relying on the prior surveillance
22 as a significant part of the rationale for his or
23 her decision, that there be some reference to it,
24 but I don't know if that's required.

1 Q. Well, wouldn't it especially be important
2 if the OSP is relying upon the prior surveillance as
3 part of his rationale for his decision that it be
4 noted somewhere because the next step is a DMO is
5 going to review what the OSP has done and decide
6 between the OSP's rationale and the treating
7 doctor --

8 MS. ZHORDANIA: Objection.

9 Q. -- correct?

10 MS. ZHORDANIA: Lacks proper foundation
11 and compound also and assumes facts not in evidence.

12 Go ahead.

13 A. I'm sorry. Could you repeat that.

14 Q. Yeah. So if an OSP concludes that an
15 insured's restrictions and limitations are not
16 supported, then before that there's an adverse
17 decision on that claim, under the current -- or the
18 practice at Unum at least when you were last there,
19 that would go to a DMO for review first; correct?

20 A. My recollection is sometimes a DMO and
21 sometimes an independent medical examiner.

22 Q. One or the other?

23 A. Right.

24 Q. If it goes to a DMO to review the OSP's

1 decision, what's your understanding of what the
2 DMO's doing? What are they being asked to do?

3 A. They're being asked to review all the
4 pertinent information in the claim and make a
5 decision as to whether the OSP's decision or -- is
6 appropriate. Typically the DMO has a -- well, maybe
7 I shouldn't say typically. Often the DMO has a
8 higher level of expertise in a particular medical
9 specialty that is in question for the claim. So,
10 whereas, the OSP might be more of a generalist,
11 let's say, the DMO many times is a specialist in a
12 certain area, whether that's, you know, orthopedic
13 or cancer or whatever medical discipline we want to
14 say. So the DMO would be expected to use his or her
15 expertise to indicate whether they agree with the
16 recommendation made by the OSP.

17 Q. All right. And in doing so, the DMO would
18 necessarily need to know what was it the OSP was
19 looking at and relied upon for his or her opinion or
20 do you agree?

21 MS. ZHORDANIA: Foundation. Incomplete
22 hypothetical.

23 A. Again, my understanding is that the DMO is
24 responsible for reviewing the file and the

1 information contained in it. I don't think that the
2 DMO should be limited to only what the OSP lists as
3 what they reviewed. I think that's a helpful
4 guidance and provides some information, but I don't
5 think it should be considered all inclusive.

6 Q. And I didn't mean to suggest that. Just
7 the opposite and that is that the DMO should start
8 with at least what the OSP had. Would you agree
9 with that?

10 MS. ZHORDANIA: Asked and answered.

11 A. I'm not sure what their process was as far
12 as what they started with, but I would say that, you
13 know, presumably the OSP is reviewing all the
14 pertinent information in the file, whether it be
15 medical or surveillance. It's my understanding it
16 is the DMO's responsibility to do the same thing and
17 conduct their own review.

18 Q. Stated differently, if the OSP had the
19 whole file available to him, the DMO should have the
20 whole file available to him or her?

21 A. Yes. That was the practice.

22 Q. Okay. If the OSP had prior surveillance
23 available to him, the DMO should have the prior
24 surveillance available to him or her?

1 A. Yes.

2 Q. Okay. In the claim file, this claim
3 file -- and I had hard copies before I lost
4 them -- this is Bates 415.

5 MS. ROSENTHAL: Yeah.

6 Q. In fact, you have the claim file there.
7 If you find 415.

8 THE WITNESS: Which one am I looking at?
9 The bottom?

10 MS. ZHORDANIA: Yes.

11 THE WITNESS: 415.

12 MS. ZHORDANIA: Mm-hmm.

13 THE WITNESS: Okay.

14 BY MR. DAWSON:

15 Q. You see at the top it says "Claim
16 Document"?

17 A. Yes.

18 Q. And it's a "Note to File." The note says,
19 "I requested claim 001 (both policies). We paid
20 benefits on claim 001 for the period of 2/4/98 to
21 5/5/2000, less 90-day EP," elimination period.

22 Do you see where I'm referencing?

23 A. Yes.

24 Q. "However, I did get a call from Cindy

1 Boucher in Records Operations. Cindy advised that
2 the insured's prior claim file was destroyed as it
3 has been over seven years old."

4 Do you see that?

5 A. Yes.

6 Q. If at a later time in the handling of
7 Dr. Biliack's claim in 2015 this prior claim file is
8 searched for again and is found and is going to be
9 used, would you expect there to be some sort of
10 comparable note reflecting that?

11 MS. ZHORDANIA: Calls for speculation.

12 A. I don't think so. I would expect since
13 the normal course of events is that the prior file
14 is included, I'm not surprised to see a notation
15 when that's not the case, but I might be surprised
16 to see a notation when what is normally the case is
17 the case.

18 So in other words, you document an
19 aberration to a practice, not the practice itself.

20 Q. You would expect the older file to be
21 included in the current file if the older file is
22 found; correct?

23 MS. ZHORDANIA: Incomplete hypothetical.
24 Calls for speculation.

1 A. If the older file is found -- and just to
2 clarify, I'm not a records retention expert, but
3 there are people at the company who are who
4 stipulate and determine how long records should be
5 kept. The seven-year time frame rings a bell as
6 something that is a generally accepted not only Unum
7 practice but probably industry, and I suspect there's
8 some relevance to what insurance departments expect,
9 but in any event, if a prior file exists and can be
10 found, since some of the older files are paper, then
11 that file should be incorporated into the current
12 claim file, either by virtue of an electronic copy
13 or virtue of a reference to a paper file that exists
14 and is accessible.

15 Q. All right. So the prior file, you would
16 expect, would be incorporated into the current file,
17 and the current file is going to reflect that either
18 by virtue of there's the prior file or reference to
19 the prior file. Am I understanding correctly?

20 A. Yes.

21 Q. And that would include if you were going
22 to incorporate include surveillance from the
23 18-year-old claim, either the surveillance should be
24 there, or there should be a reference of the

1 surveillance just as there is for the current
2 surveillance?

3 MS. ZHORDANIA: Calls for speculation.

4 A. Generally, I think that makes sense.

5 MR. DAWSON: Your turn?

6 MS. ZHORDANIA: Do you need a break?

7 THE WITNESS: How long are you going to
8 be?

9 MS. ZHORDANIA: Probably longer than
10 30 minutes.

11 THE WITNESS: A break sounds good.

12 MS. ZHORDANIA: Okay.

13 THE VIDEOGRAPHER: We are off the record
14 at 4:57 p.m.

15 (Short break taken.)

16 THE VIDEOGRAPHER: We are on the record at
17 5:04 p.m.

18 CROSS-EXAMINATION

19 BY MS. ZHORDANIA:

20 Q. Mr. Peter, I don't know if you were asked
21 this before, but do you understand you are
22 testifying under oath today?

23 A. Yes.

24 Q. You understand it's important to tell the

1 truth?

2 A. Of course.

3 Q. And in your separation agreement with
4 Unum, did you agree to anything that would prevent
5 you from telling the truth today?

6 A. No.

7 Q. You were subpoenaed to appear for deposition
8 today by plaintiff's counsel. Did you understand
9 that?

10 A. Yes.

11 Q. In other words, it was Dr. Biliack's
12 attorneys who asked you to appear today and testify?

13 A. Yes.

14 Q. Unum did not ask you to appear and testify
15 in this case?

16 A. Correct.

17 Q. And this case is not your first encounter
18 with Dr. Biliack's attorney; is that correct?

19 A. It's my first encounter with him deposing
20 me, but I had spoken to him on the phone once before
21 in my capacity as a consultant.

22 Q. And who are you referring to?

23 A. Steve Dawson.

24 Q. And why did you -- strike that.

1 Under what circumstances did you -- strike
2 that again.

3 So did you contact Mr. Dawson or did he
4 contact you regarding your services?

5 A. Well, initially when I began pursuing the
6 consulting work, I contacted various attorneys, and
7 I believe Mr. Dawson was one of the attorneys or
8 firms that I e-mailed or called.

9 Subsequent to that, maybe a few months
10 later, I'm not sure, he contacted me to discuss a
11 case that I think he was working on, and we talked
12 about the case for maybe half an hour or so, and it
13 was determined that -- I don't remember the specifics,
14 but I want to say that it was a very specialized
15 case, and I did not have the particular expertise
16 that he was looking for. So we -- that became
17 apparent after we kind of, you know, talked in
18 general terms about the details of the case.

19 Q. So Mr. Dawson contacted you in connection
20 with potentially retaining you in another case as a
21 consultant. Did I get that right?

22 MR. DAWSON: Objection. Leading.

23 A. Mr. Dawson contacted me to talk about a
24 case, and my understanding was that if I had the

1 necessary expertise that he would have considered
2 hiring me. I don't know if that was his intention,
3 but that was my understanding.

4 Q. During your employment at Unum Group, did
5 you directly supervise any of the on-site physicians?

6 A. No.

7 Q. Did you supervise any Designated Medical
8 Officers, also referred to as DMOs?

9 A. No.

10 Q. You mentioned that surveillance reports
11 were kept separately or something to that effect.
12 Do you recall that?

13 A. I think I said sometimes they
14 were -- there was -- I think sometimes they were
15 part of the claim file and sometimes there was a
16 reference in the file that there was a separate
17 surveillance disk or CD or whatever it was called
18 that existed, but it was because it was a physical
19 thing as opposed to an electronic document, it was
20 housed separately.

21 Q. Are you aware of any Unum policy
22 that -- written policy that required an on-site
23 physician who reviewed maybe surveillance from a
24 prior claim for him to have to incorporate it into

1 the existing claim file?

2 A. No, I'm not.

3 Q. Do you know what OSPs' general
4 practice -- OSPs' general practice was with respect
5 to reviewing surveillance from other previous claim
6 files and what they did with surveillance after
7 reviewing them?

8 A. Not specifically, no.

9 Q. From time to time -- strike that.

10 You testified that based on your
11 understanding, on-site physicians did not always
12 list everything they reviewed in connection with the
13 claim. Did I get that testimony correctly?

14 A. That was my testimony. That's my
15 understanding, yes.

16 Q. And do you understand why that is?

17 A. Well, many of the claim files are very
18 large. I mean, some of them, you know, if they were
19 printed would be thousands of pages, and so I think
20 the example I gave was that, you know, if there were
21 100 pages of medical records, and 60 of them were
22 narrative notes, and 40 of them were various test
23 results that it would be cumbersome and time-consuming
24 to literally list every single page and report and

1 everything; so, it seems to make sense that as a
2 matter of practice, someone might reference, you
3 know, the test results as opposed to listing every
4 single test that comprised those results.

5 Q. And you mentioned that you were terminated
6 by Unum Group sometime in 2016. When in 2016 were
7 you terminated?

8 A. October.

9 Q. Do you know what Unum's general practices
10 or procedures have been since October 2016 to the
11 present?

12 A. No.

13 Q. Let's talk about the Biliack case. Do you
14 recall Dr. Biliack's claim at all?

15 A. No.

16 Q. Do you recall having any conversations
17 with Liz Wetton regarding Dr. Biliack's disability
18 claim?

19 A. No.

20 Q. Do you recall reviewing the claim file
21 pertaining to Dr. Biliack's disability claim at all?

22 A. No.

23 Q. You testified about so-called CIS reports
24 earlier today. Do you recall that?

1 A. Yes.

2 Q. You stated that Directors would input
3 certain information in order for a CIS report to be
4 generated. Did I get that right?

5 A. Yes.

6 Q. Can you tell me what is your understanding
7 as to what report or paperwork did it -- would a
8 Director fill out in order for a CIS report to be
9 generated for your purposes?

10 A. My recollection is that there wasn't
11 necessarily paperwork. It was an online system or
12 database, and in the course of their duties as a
13 Director when they were reviewing a claim file or
14 working with a DBS on a claim file, if it appeared
15 that a change in status was upcoming, and the change
16 in status could be a recovery, it could be that the
17 claim was moving from active to inactive management.
18 It could be a claim that was moving from residual to
19 total or vice versa, any type of change in status
20 that the Director became aware of, they were
21 expected to enter that information into this online
22 system. I don't remember everything that it
23 included, but it was basically, you know, claimant's
24 name, policy number, the date that they -- or the

1 month that they expected the change in status,
2 something like that.

3 Q. Now, Ms. Wetton testified in this case
4 that she did not input Dr. Biliack's claim into a
5 CIS report.

6 A. Okay.

7 Q. If you assume that Dr. Biliack's claim
8 wasn't input in that system you just talked about,
9 would you expect to see Dr. Biliack's claim on the
10 CIS report that you received?

11 A. No. The report that I saw was based on
12 the data or the information that the Directors
13 input.

14 Q. And if Dr. Biliack's claim wasn't on the
15 CIS report, would his claim be one of the claims
16 you'd be following up with Ms. Wetton on?

17 A. Typically, no. I wouldn't be aware of it.

18 Q. Based on your ten-year employment history
19 as AVP of Claims, can you tell me what procedures
20 were in place to ensure that a particular claim was
21 adjusted and handled fairly.

22 A. Sure. I mean the expectation --

23 MR. DAWSON: Objection. Assumes facts not
24 in evidence.

1 Q. Go ahead.

2 A. I think as we've talked about before, the
3 expectation was that every claim be handled on its
4 own merits and every claim be handled fairly.

5 There were several safeguards in place to
6 help assure that. One would be the Director
7 themselves who was responsible for the reviewing the
8 work of their DBSs. We've talked about in the case
9 of a recommended claim denial how it was not only
10 the Director but also the QCC who had to sign off.
11 In addition to that, there were ongoing quality
12 audits of claims. Each Director had -- excuse
13 me -- each DBS had a certain number of claims
14 reviewed over the course of a year, and those
15 reviews were done by an outside -- not outside Unum
16 but outside of claim operations area. There was a
17 specific area that did the quality reviews, and
18 that's all that those individuals did. They didn't
19 handle actual claims. They just did the quality
20 reviews, and so whenever those reviews were done,
21 the findings would be shared with the Directors, and
22 the Directors were expected to, you know, discuss
23 the findings with their DBSs and compliment them on
24 things they had done well and help coach and mentor

1 them on areas for improvement.

2 Q. And you mentioned earlier today that there
3 was also an Appeals Department?

4 A. Yes.

5 Q. And what was their role of an Appeals
6 Department with respect to denial of claims?

7 A. So, again, there were -- every claimant
8 had the opportunity to appeal the decision to deny
9 their claim. I think what I said was that in some
10 cases the appeal would be without the claimant
11 submitting any new information and sometimes the
12 claimant would submit new information, but in any
13 event, the appeal was conducted independently of the
14 DBS or the Director or the QCC who had been involved
15 in the claim, so it was a totally new, separate
16 review, and I think one of the documents that I was
17 provided with was an e-mail from one of the appeals
18 specialists, and so that was one way that the
19 Director and myself as an AVP would kind of keep
20 track of the quality of work that was done by a DBS.
21 So it would be relevant if a DBS had a claim that
22 they had denied where the decision was overturned on
23 appeal.

24 If the decision to overturn it on appeal

1 was based on new information that the DBS did not
2 have access to, then generally you wouldn't fault
3 the DBS, because they didn't have that information,
4 but if the appeal was overturned based on no new
5 information, so this is an independent person
6 reviewing the claim file in comparison to our
7 practices and procedures, if that appeals specialist
8 indicated in their review, and these were generally
9 long-tenured, highly experienced people who were
10 doing the appeals reviews, then if the situation
11 were that the appeals specialist indicated that the
12 decision should be overturned without any new
13 information, then that would, you know, give
14 occasion for the Director to discuss with the DBS
15 why that was the case, and if it was determined that
16 some policy or practice had not been followed
17 appropriately, then that would be utilized as a
18 learning tool for the team.

19 Q. During your 10-year experience in claims
20 as AVP, did you ever suspect anyone you supervised,
21 either a DBS or a Director, of improperly denying
22 claims?

23 A. No, I didn't, and as we've just talked
24 about, we had quite a few safeguards in place that

1 would give us a heads up or make us aware of that.

2 Q. During your 10-year -- during your work as
3 AVP of Claims for Unum Group, did you ever suspect
4 any Director of improperly denying or closing claims
5 in order to meet certain metrics?

6 A. No.

7 Q. If you had suspected that any Director was
8 engaged in such conduct, what would you have done?

9 A. Well, to start with, I would have, you
10 know, not only reviewed that -- the file that caused
11 me to have the concern, but I would probably have
12 reviewed a wider sampling of the Director's work.

13 Depending on the situation, I may or may
14 not have asked for assistance from our Quality
15 Review Department. I probably would have made my
16 manager aware of it. I probably would have spoken
17 with the Director about it once the evaluation was
18 complete. So it's hard to say everything, but
19 that's kind of what comes into mind as what I would
20 likely have done.

21 Q. You supervised Elysabeth Wetton?

22 A. Yes.

23 Q. For how long?

24 A. My recollection is that she reported to me

1 a couple of different times. So, in aggregate, I
2 want to say three or four years maybe.

3 Q. And during those times, did you ever
4 suspect Ms. Wetton of denying or closing a claim to
5 meet performance metrics or any other improper reason?

6 A. No, I didn't suspect that, and I received
7 no metrics or information that would have made me
8 think that.

9 Q. How would you describe Liz Wetton?

10 A. I would describe her as a dedicated,
11 hard-working Director. She had the respect of the
12 DBSs who worked for her. She had my respect. She
13 was very level-headed, very practical, I would say,
14 logical, you know, good critical thinking skills.
15 She was a good Director.

16 Q. Did Ms. Wetton ever tell you anything that
17 led you to suspect that she -- strike that.

18 Did Ms. Wetton ever tell you anything that
19 made you suspicious or concerned about the way --
20 about the manner in which she was approving denials
21 of claims?

22 A. No, not that I recall.

23 Q. Do you know -- do you recall a DBS by the
24 name of Jodi Bishop?

1 A. Yes.

2 Q. How often did you interact with her?

3 A. I mean she didn't report to me directly.
4 She reported to a Director who reported to me, so I
5 would say it was, you know, regular, but infrequent,
6 you know. I would see her in the hallway. I would
7 ask her how things were going and talk to her and,
8 you know, periodically I would meet with the DBSs to
9 we call them skip level one-on-ones, so instead of
10 meeting with their Director, who's my direct report,
11 I'd meet -- you know, I'd skip a level and meet
12 directly with the DBS, and so I'm sure I did it with
13 Jodi, as I did it with all of them from time to
14 time, and, you know, I didn't have any reason to
15 think anything other than that she was a good DBS.

16 Q. Did you ever suspect any improper claims
17 handling on behalf of Jodi Bishop?

18 A. No.

19 Q. You talked about managerial meetings, I
20 believe. Does that sound right?

21 A. Yes.

22 Q. Can you tell me what types of things you
23 would discuss with your Directors during those
24 managerial meetings?

1 A. Sure. So we had a standing weekly staff
2 meeting for my team. We didn't always have them, so
3 in a given month, we might have a couple or three
4 maybe. We would speak about whatever issues were
5 going on at the time; so anything to do with the
6 operation of the business. It could be related to a
7 staffing situation where, you know, the workload was
8 high, and there was a need to, you know, move it
9 around outside the traditional team function. It
10 could be a situation where a DBS had given their
11 notice and was, you know, leaving the company, and
12 we wanted to talk about how we were going to reassign
13 their claims. It could be let's say we had had a
14 bunch of recent quality reviews, and there were some
15 themes and trends that we wanted to talk about and
16 make sure people were aware of any pertinent issues,
17 we would talk about that.

18 So, you know, I can't list everything, but
19 it was just things that I would describe as kind of,
20 you know, routine management items that would come
21 up in the day-to-day events of managing the team.

22 Q. Now, you evaluated the performance of
23 Ms. Wetton?

24 A. Yes.

1 Q. Can you tell me what criteria you took
2 into account when evaluating the performance of
3 Ms. Wetton?

4 A. Sure. As I think I referenced in other
5 answers, you know, there were a variety of criteria
6 that went into the performance review of any Director,
7 and those would include certainly the where they
8 were in relation to their plan expectations that
9 we've talked about a lot, but a lot of things we
10 haven't talked about in terms of, you know, each
11 Director was reviewed based on the quality of the
12 decisions that their team had made. So I said
13 earlier that each DBS had various quality reviews
14 done and so, in turn, a given Director was evaluated
15 against how their team did collectively in those
16 reviews. Appeal rates were a factor, so if a given
17 Director had a lot of appeal overturns, that would
18 be a factor.

19 How they worked with their team? How did
20 they coach and mentor and develop their team? What
21 did their team think of them? What did their peers
22 think of them in terms of being knowledgeable, in
23 terms of being helpful team players? You know,
24 there's a really a whole litany of factors that

1 would go into an evaluation.

2 Q. When you evaluated your Directors,
3 including Ms. Wetton, did you put more emphasis on
4 one factor or one criteria such as paid recoveries
5 versus other factor or criteria such as quality?

6 A. I think the three major factors, you know,
7 if I had to list them would be the paid recoveries,
8 quality, and then any kind of customer service
9 issues, so timeliness of decisions, any feedback
10 that the customers gave us, either directly or as
11 part of a survey that the company would do.

12 So I think those three areas: the
13 recoveries, the quality of the decision, and the
14 overall customer service and timeliness were all
15 relevant, equally relevant factors, and then there
16 were some of the other things I mentioned that would
17 play a part, but I probably would maybe not give
18 them the exact same weight.

19 Q. Based on your experience in working with
20 Ms. Wetton, did she always meet the quality standards?

21 A. I'm not sure any Director always met them.
22 I would say that the vast majority of times she did.
23 You know, I think over the course of time, you know,
24 in a given reporting period, month or quarter or

1 something, there might be a Director who fell short
2 of the quality expectations, but all of them who
3 reported to me, including Ms. Wetton, you know, on
4 average, the vast majority of the time met or exceeded
5 the quality standards.

6 Q. What about customer service standards?

7 A. Same thing. Occasionally there would be
8 something that, you know, was an aberration, but we
9 had a, you know, a variety of metrics to measure
10 various aspects of customer service and timeliness,
11 and I guess a similar answer that, you know, any
12 Director would have the occasional aberration, but
13 Ms. Wetton and the rest of my team in the vast
14 majority of situations met or exceeded the service
15 aspects.

16 Q. Did Ms. Wetton always meet the paid
17 recovery metric or expectation, monthly expectation?

18 A. I would say that neither she nor any
19 Director that I can recall always met the
20 expectation.

21 You know, we tried to look at it, although
22 the information and the evaluation was done monthly,
23 we tried to look at it over a longer period of time,
24 because a month -- almost anything could happen in a

1 given month, but if you look at a larger sample size,
2 if you look at it quarterly, for example, things
3 should kind of even out over time, and so, there
4 were -- I'm sure there were months when Ms. Wetton
5 did not meet what you just asked about, but I think
6 that's also true of all of the other Directors who
7 reported to me, and I'm probably -- I don't know
8 for sure because I didn't have access to their
9 information, but I think it's probably true of any
10 Director in the department.

11 Q. You testified earlier that the number of
12 claims that were expected to close and the number
13 of -- the amount of recoveries that were expected to
14 be released by the end of the month was based on
15 historical performance. Did I get that correctly?

16 A. Yeah, I think it was -- I would say it was
17 based on historical performance with weight given to
18 the current makeup of their block of claims.

19 Q. And how did you personally refer to these
20 numbers that you would receive from Ms. Griffin and
21 communicated to Ms. Wetton?

22 A. I think probably most commonly is the
23 monthly plan expectation.

24 Q. And did you understand that the numbers

1 that were provided to you by Ms. Griffin were actual
2 targets for closures?

3 A. I don't recall the word "target" ever
4 being used. I think the way they were phrased was,
5 you know, this is the -- I recall the word "guidance"
6 being used. So, again, based on historical
7 expectation or excuse me historical performance,
8 that these were the, you know, plan expectations for
9 that month.

10 Q. Did the company refer to paid recoveries
11 in reports?

12 MR. DAWSON: Objection. Vague.

13 A. I think there were some reports that
14 referenced paid recoveries, yes.

15 Q. I think earlier today you looked at Weekly
16 Tracking Quarterly View. I believe it was
17 Exhibit 3?

18 A. Yes.

19 Q. Does the Weekly Tracking Quarterly Review
20 include paid recoveries?

21 A. Yes.

22 Q. So was it -- strike that.

23 Did the company somehow keep it a secret
24 that it was tracking paid recoveries?

1 MR. DAWSON: Objection. Foundation.

2 Vague.

3 A. Not to my knowledge, no.

4 Q. Do you recall any other reports that refer
5 to paid recoveries other than the weekly tracking?

6 A. I think there were others. At this point
7 after a couple years, I can't identify what they're
8 called, but I think it's reasonable to say that this
9 was not the only one.

10 Q. If you look at Exhibit -- the Upjohn
11 warning -- I don't recall which exhibit it was.
12 There are four bullet points on that exhibit. Do
13 you see that?

14 A. Yes.

15 Q. The first one is "Improperly coding claim
16 closures to achieve performance metrics and/or plan
17 forecasts."

18 Do you see that?

19 A. Yes.

20 Q. Can you tell me what do you understand --
21 strike that.

22 The first bullet point that I just read,
23 can you tell me what you understand that is -- what
24 is that referring to, based on your understanding?

1 A. I think it's referring to what we've spent
2 a fair amount of time talking about which is the
3 delaying of the coding of the claim closure in the
4 internal system to, in some cases, cross the month,
5 in order to help achieve what we have previously
6 talked about being the consistent and predictable
7 results.

8 Q. Based on your understanding, how did
9 improperly coding claim closures to achieve
10 performance metrics and/or plan forecasts affected
11 insureds?

12 A. It didn't. As I've said, the delay was
13 simply in our internal system. There was no delay
14 to anything having to do with the claimant any type
15 of phone call or letter or any notification or
16 decision, those were all done when they should have
17 been done. The only delay was in the internal
18 system, which had no impact one way or another on
19 the claimant.

20 Q. The second bullet point says, "Paying
21 benefits on an under reservation of rights or an
22 'exceptional basis to be of service to the claimant'
23 to achieve 'paid recovery' performance metrics."

24 Did I read that correctly?

1 A. I think so.

2 Q. Based on your understanding, what does
3 that bullet point refer to?

4 A. So there were situations where some claims
5 would be paid under a what was known as a reservation
6 of rights or ROR, and the idea behind that was that
7 there were certain claims that appeared to be headed
8 toward a decision that they would be payable claims,
9 but we didn't quite have all the information that we
10 needed. Sometimes there was a delay, let's say, in
11 receiving information from a physician. So if the
12 Director and DBS felt that it was likely when the
13 information was received that the claim would be
14 payable, they would pay it under this so-called
15 reservation of rights, and it was a way to designate
16 a situation where we were making a payment in order
17 to provide service to the customer. So, again, you
18 have customers who are claiming disability. They're
19 not able to work. Many people, probably the majority
20 of people, you know, only have a limited time period
21 where they can sustain themselves and their expenses
22 without any income coming in.

23 So in situations where it seemed likely
24 that the claim would be payable once we had the

1 information we needed, sometimes payments would be
2 made under this reservation of rights and really
3 what we were -- the rights we were reserving was
4 that if it turned out that something changed, and we
5 obtained -- that the -- that the information we were
6 waiting for when we did obtain it, if that maybe
7 contradicted what we thought we knew or provided
8 something additional, that we, by making this payment
9 under reservation of rights, we weren't forever
10 saying your claim is approved. We're saying based
11 on what we have now, it's approved. Here's your
12 payment, but we reserve the right to change that if
13 we subsequently get information that changes our
14 position.

15 Q. And based on your understanding, if at
16 least some Directors at Unum paid benefits on an
17 under reservation of rights or an exceptional
18 basis --

19 THE COURT REPORTER: I'm sorry.

20 Q. Based on your understanding, if some
21 Directors at Unum, in fact, paid benefits on an
22 under reservation of rights or an exceptional basis
23 to be of service to the claimant to achieve paid
24 recovery performance metrics, how would that

1 affect -- how would that have affected the insureds?

2 A. I guess I would say that in the situation
3 or the example I described previously about what
4 reservation of rights payment was, you know, I
5 described a perfectly appropriate situation that a
6 reservation of rights payment would be made.

7 If the payment was only made for the
8 purpose of achieving the paid recovery performance
9 metrics, then that would not be appropriate, but in
10 either way, the claimant was not disadvantaged in
11 any way. If anything, they received money that they
12 might otherwise not have received or been entitled
13 to; so not only was there no detriment to the
14 claimant, you could argue that they benefitted.

15 Q. And the third bullet point says "Paying
16 benefits without disability or eligibility being
17 fully evaluated."

18 Did I read that correctly?

19 A. Yes.

20 Q. And if, in fact, some Directors or DBSs
21 paid benefits without disability or eligibility
22 being fully evaluated, how would that have affected
23 the insureds?

24 A. Again, there would have been no detriment.

1 If that occurred, then the insured would have
2 received claim benefits that they should not have
3 been entitled to based on the terms of their policy.

4 Q. And the last bullet point says "Paying
5 benefits prior to obtaining appropriate medical
6 confirmation confirming disability determination."

7 Did I read that correctly?

8 A. Yes.

9 Q. And if, in fact, some Directors or DBSs
10 paid benefits prior to obtaining appropriate medical
11 confirmation confirming disability determination,
12 how would that have affected the insureds?

13 A. Again, as with all these, there would be
14 no detriment to the claimant, and conversely there
15 would likely be a benefit.

16 Q. So based on your understanding, did any
17 misconduct that Unum referenced in terminating you
18 from your employment, did they affect the insureds
19 negatively?

20 A. No.

21 Q. What is your understanding as to why Unum
22 tracks paid recoveries?

23 A. My understanding is that, you know, as is
24 the case in almost any business, I think, there are

1 certain metrics that are looked at as a way to
2 evaluate performance and one way to do that is look
3 at what has happened historically, and so all things
4 being equal, if you have a block of claims that has
5 historically resulted in "X" number of recoveries,
6 all things being equal, it's reasonable to expect
7 that the performance currently would be consistent
8 or similar to prior performance, so, or historical
9 performance.

10 So it was one way to measure the
11 effectiveness of a team if they were achieving these
12 results that were consistent with what had
13 traditionally happened over time.

14 Q. Did tracking of paid recovery metric help
15 you in any way in managing the AVP team?

16 A. I think so. It was one way to evaluate
17 the effectiveness of the Directors and, in turn,
18 their teams and, you know, if those numbers were
19 dramatically off over an extended period of time,
20 then it raised some questions about was the team
21 doing what they were supposed to do? Were they
22 handling claims timely. Were they handling claims
23 appropriately? Were they making the decision
24 favorable or unfavorable that they were expected to

1 make in a timely manner.

2 Q. Why didn't you communicate paid recovery
3 expectations to Disability Benefits Specialists?

4 A. Really it was because we didn't think that
5 was relevant to their job. What was relevant to
6 their job, and it actually is contained in on this
7 weekly tracking view, the fine print that Mr. Dawson
8 read earlier, you know, kind of speaks to that, that
9 what was expected of a DBS is that they handle each
10 claim on its own merits. As Mr. Dawson pointed out,
11 you know, the historical performance of a large
12 block of claims isn't relevant to a particular
13 claim, that one claim; and so it was thought that
14 the large numbers were relevant to a Director's
15 block of business or 250 or 300 claims, but not down
16 to the relatively small number of a DBS's caseload,
17 and so it was the DBS's job to handle every claim as
18 they saw fit in conjunction with their Director and
19 other resources, and it was not, you know, the
20 number of claims that they approved or denied or did
21 anything with wasn't relevant to their performance.
22 They were evaluated on other criteria.

23 Q. And based on your experience, who made
24 decisions to deny claims?

1 A. You know, the DBS was responsible for
2 handling the claim and making recommendations. There
3 were some decisions that DBSs could make on their
4 own, and there were some that required the review
5 and approval of their manager who was the Director.

6 So typically, it would be a DBS, you know,
7 making a recommendation to their Director that a
8 claim should be denied, but they needed the
9 Director's review and approval to do so.

10 Q. While you worked at Unum Group, did you
11 ever feel that it was improper to track paid
12 recoveries and to communicate it to your Directors?

13 A. No.

14 Q. Did you ever complain to anyone saying, I
15 don't think it's appropriate for me to communicate
16 paid recovery expectations based on historical
17 performance to my Directors?

18 A. No.

19 Q. Why didn't you think it was inappropriate?

20 A. I guess for a couple of reasons. First,
21 it was a long-standing practice before I joined the
22 claim organization; and second, you know, having
23 been in the company, in a different function, and
24 having some knowledge of other functions, you know,

1 having different metrics and measurements that we
2 used and evaluated the organization against was a
3 pretty common occurrence. I think, you know, to the
4 best of my knowledge, every functional area in the
5 company,
6 and probably in almost any business has -- has
7 performance metrics that they're evaluated against,
8 and so it didn't, you know, since paid recoveries
9 was one of those metrics as was, you know, appeal
10 rates and reopen rates and quality percentage, all
11 those things were things that we measured, and none
12 of them seemed inappropriate.

13 Q. If you could give a different name to paid
14 recovery expectation, what would you call it?

15 A. I'm not sure. I guess calling it an
16 expectation maybe makes it sound like something it's
17 not. I don't know what I would change it to, but
18 guidance or I'm really not sure.

19 Q. Would it be accurate to describe it as a
20 forecast?

21 A. Yeah, I think that's fair. It's based on
22 what's happened in the past. It is what's forecast
23 for the future, all things being equal.

24 Q. We talked about -- actually strike that.

1 Earlier today you talked about delivering
2 consistent results.

3 A. Consistent and predictable results.

4 Q. Consistent and predictable results. Was
5 consistency expected in other areas?

6 A. Other areas of results? Other areas of
7 the company?

8 Q. Other areas such as you mentioned quality,
9 reopen rates. Was consistency expected in those
10 areas in terms of customer service, quality, reopen
11 rates?

12 A. Yes.

13 Q. Did you ever discuss paid recovery
14 expectations with Jack McGarry?

15 A. I don't think I ever, you know, discussed
16 it with him in a one-on-one setting. I mean was I
17 ever a part of a meeting where he was present and
18 that was a topic, perhaps, but not individually, no.

19 Q. Did you ever discuss with Jack McGarry
20 Unum's practice of delaying recording of paid
21 recoveries?

22 A. Not that I recall.

23 Q. I'm just going to jump around a little bit
24 now because I took notes as you were testifying.

1 You said you were in underwriting before
2 you joined claims. Did I get that correctly?

3 A. Yes.

4 Q. Based on your underwriting experience, how
5 important is it for the insured to be truthful in
6 his or her insurance application?

7 A. Very.

8 Q. Why?

9 A. It forms the basis for the contract that
10 they're provided, so, as is the case, I think, with
11 other contracts or insurance, you know, the company
12 is issuing a policy based on the representations
13 that a person, an applicant makes, so in this case,
14 you know, we're talking about a disability policy
15 that provides benefits in the event that the
16 policyholder is unable to work, that they're disabled,
17 and so, it's very important that the person applying
18 for insurance be truthful with respect to, for
19 example, their prior medical history because that
20 would affect the type of policy or perhaps the rate
21 that they're charged or whether a particular medical
22 condition would be excluded from coverage. It would
23 be kind of like if you, you know, insured your car
24 and didn't tell them that it was currently totaled

1 from an accident.

2 Q. Based on your understanding, why did Unum
3 track reopen rates?

4 (Music playing.)

5 A. I'm sorry. I was distracted, as others
6 were. Could you please repeat that.

7 Q. Sure. Based on your understanding, why
8 did Unum Group track reopen rates?

9 A. It was a kind of a metric that helped point
10 to the quality of the decisions that were made
11 initially, and so if the -- if a given individual or
12 team had high reopen rates, then it would make you
13 look into and question the quality of the decisions
14 that were made to begin with.

15 Q. Have you ever read the RSA?

16 A. Mr. Dawson asked me that and I think what
17 I said is that I don't know if I read the RSA or if
18 I simply read claim practices and guidelines that
19 were written and resulted from the RSA.

20 Q. Did you ever report to Nancy McGee directly?

21 A. No.

22 Q. What is your understanding of the closed
23 block organization in terms of what type of policies
24 are in there, other than IDI?

1 A. I think the way Unum describes the closed
2 block, at least as of the time I left, is that in
3 addition to these IDI policies, it also includes the
4 long-term care block of business.

5 Q. Based on your experience in underwriting,
6 do you know whether Unum Group issues policies,
7 disability policies?

8 A. I don't think Unum Group is a licensed
9 insurance entity. I think they're a parent company
10 or holding company maybe. I think the policies are
11 issued under the respective ensuring entities, like
12 maybe Provident Life and Accident or something like
13 that. I don't think there are policies that
14 specifically say Unum Group.

15 Q. Do you know whether Unum Group handles
16 disability claims on behalf of nonaffiliated
17 companies?

18 A. So by "affiliated," you mean companies
19 that Unum has an agreement with to administer their
20 claims?

21 Q. I mean affiliated companies like
22 subsidiaries or sister companies, in other words,
23 nonaffiliated company?

24 A. So as far as I know, Unum handles claims

1 from companies that they have an arrangement with to
2 handle, but, otherwise, they don't.

3 Q. And what are those companies?

4 A. I can't list them all, but we've given
5 some examples before. We talked about New York Life,
6 Equitable. I want to say John Hancock, General
7 American. There's probably 20 or so companies. I
8 can't remember them all.

9 Q. Okay. Can you give me examples of paid
10 recoveries.

11 A. What is a paid recovery?

12 Q. Yes. If I understood your testimony
13 earlier today, a paid recovery doesn't necessarily
14 mean a claim that was denied? Did I get that right?

15 A. Yes, it could be a situation where an
16 individual goes on claim and the nature of their
17 claim, the nature of their disability is such that
18 after a period of time they have recovered from
19 their accident or illness, whatever the case may be,
20 and returned to work. I think the majority of the
21 paid recoveries probably fall into that category,
22 where people have a temporary disability, and
23 ultimately in a matter of some period of time, return
24 to their job.

1 Q. Any other examples of paid recoveries?

2 A. Not that I can recall.

3 Q. What about advanced pay and close, would
4 that be a type of --

5 A. Yes, it would.

6 Q. Can you explain what that is.

7 A. Sure. So what we called an AP and C or an
8 advanced pay and close is a situation where based on
9 the handling of the claim, it appears that the
10 claimant will be returning to work in a relatively
11 short period of time, so let's say one to three
12 months as a guideline.

13 In some cases, it's kind of mutually
14 beneficial to not have the claimant be responsible
15 for the paperwork. So I guess to take a step back,
16 every month that a claimant is disabled, they're
17 required to provide a statement of their disability
18 and get certification from their physician that they
19 are, in fact, disabled.

20 Certain accidents or illness, kind of by
21 their nature, suggest that they're self-limited, so
22 that they're not going to go on forever, and that in
23 a reasonable period of time, again let's say, one to
24 three months, that it seems reasonable and everything

1 is on track for that insured to return to work; and
2 so if it's determined that it's mutually beneficial,
3 so what I mean by that is we don't have to ask the
4 claimant or their physician to provide the paperwork,
5 we don't have to, in turn, review it, then it makes
6 sense to make this advanced payment of a month or
7 two months or three months to their expected return
8 to work date.

9 So it would be a situation where the
10 claimant and their attending physician have agreed
11 that they are, in fact, on track and planning to
12 return to work by "X" date and if they're not
13 self-employed, assuming they work for someone, then
14 the employer has also agreed to that, and so it's
15 just, I guess, a matter of efficiency to pay them in
16 advance. So as the name implies, it's an advanced
17 payment and then a close of the claim.

18 If the claimant is subsequently unable to
19 return, if their condition worsens or there's some
20 change, then it's -- it's not a problem to reopen
21 the claim and begin paying benefits again.

22 Q. You said that -- strike that.

23 If you saw that in a given month a
24 particular Director and his or her team were short

1 of the paid recovery expectation you had received,
2 were there any steps you could have taken to meet
3 the expectation?

4 A. Steps that I would take or that they would
5 take?

6 Q. That they would take or --

7 MR. DAWSON: I'm sorry. That who would
8 take?

9 A. I was asking if she was asking is it steps
10 that I would take or that the Director would take.

11 MR. DAWSON: Okay.

12 A. So I guess the steps I would take would be
13 to just talk to the Director and find out what the
14 reasons were and if there was anything I could do to
15 help. Do they want to talk about a claim or a
16 decision? Do they need my help to expedite
17 something? You know, whatever the situation may be.
18 I'm their manager, so is there something I can do to
19 help them?

20 So one example of a way, I guess, to help
21 achieve the plan expectation would be to do this AP
22 and C or advanced pay and close.

23 Q. When you received a CIS report, if you saw
24 a particular claim had a large reserve associated

1 with it, did you ask any of your Directors to target
2 that claim for denial?

3 A. No, absolutely not.

4 Q. Did -- strike that.

5 When you saw that a particular claim on a
6 CIS report had a large reserve associated with it,
7 did you ask any of your Directors to handle that
8 particular claim in a different way than they should
9 a claim that was associated with a smaller reserve
10 amount?

11 A. No.

12 Q. From the CIS report, could you tell which
13 claim was from closed block?

14 A. Not that I recall, no.

15 Q. To your understanding -- strike that.

16 Based on your understanding, did the
17 Directors you personally supervised handle claims
18 differently from the closed block than other claims?

19 A. No. In fact, I would say that in many
20 cases, we didn't even know or pay attention to
21 whether it was part of the closed block or not.

22 Q. Now, you were asked questions about I
23 believe it was Exhibit 1, Manager Toolkit.

24 A. Yes.

1 Q. Had you ever seen the Manager Toolkit
2 prior to today?

3 A. You know, I recall the term being a
4 management toolkit, but I had not received -- I had
5 not seen this particular document or even one
6 comparable to it for a year in which I was part of
7 claims.

8 Q. So during your entire time in claims, you
9 hadn't seen a document titled Management Toolkit?

10 MR. DAWSON: Objection. Leading.

11 A. I was familiar with the term "Manager
12 Toolkit," but it was in the context of things that
13 would be helpful for a manager to know. It was more
14 of like a human resource document that would provide
15 guidance from that standpoint of being a manager.
16 So the context, it seems to be in this case, although
17 I haven't looked at every page, this appears to be
18 more of a like a business plan, and it is identified,
19 in part, as that, but. So I am just not familiar
20 with this document or anything that looks like it.

21 Q. If you could just flip through Exhibit 1
22 and let me know whether during your entire ten-year
23 employment with Unum as AVP of Claims whether you
24 had seen a document similar to Exhibit 1.

1 (Pause.)

2 A. So I've seen different documents that
3 include some of the aspects of this document. I
4 don't recall seeing a document that -- one document
5 that included all of these aspects, nor do I recall
6 seeing all of these aspects in various documents.

7 What I do recall is seeing some documents
8 that include some of the material here, and I guess
9 how I would characterize this document, in general,
10 is that it's talking about certain company objectives,
11 whether they be related to revenue or customer
12 service and quality and things like that, and it's
13 kind of extending that. So if these are the
14 corporate objectives, then here's how a particular
15 business area, so in this case, claims or benefits,
16 how that relates to them. So what is it that
17 employees in that organization can do that ultimately
18 impact the larger corporate goal? So it's kind of,
19 I guess, putting into perspective how people fit
20 into the big picture of the company.

21 Q. Did you ever use Exhibit 1 to train any of
22 your Directors?

23 A. No, I never saw it before today.

24 Q. Did you ever use Exhibit 1 to train any of

1 your DBSs?

2 A. No.

3 Q. Did you ever go over with any of your
4 Directors with a document that's similar to
5 Exhibit 1?

6 A. There might be certain parts of this that
7 I would have gone over; for example, there's
8 reference to people development, and, you know,
9 customer service and quality and things like that;
10 so, you know, some of those were certainly topics
11 that I would have gone over with them, but I just
12 don't recall -- not only don't I recall this
13 document. I don't really recall a document like it
14 either.

15 Q. Did you ever tell or suggest to any of
16 your Directors that their team needed to close or
17 deny more claims?

18 A. No, definitely not.

19 Q. Did you ever have a discussion with Scott
20 Gillaspie as to why he's copied on e-mails such as
21 the one you went over earlier today? I don't recall
22 which exhibit it was.

23 A. It looks like Exhibit 2. Is that what the
24 circled number means?

1 Q. Yes.

2 A. No, I don't believe I ever had conversations
3 with him about why he was copied.

4 Q. Did you ever have a discussion with anyone
5 else as to why Scott Gillaspie was copied on this
6 e-mail, Exhibit 2?

7 A. No, not that I can think of.

8 Q. And I'm sorry if you explained this, but
9 based on your understanding, why was Jodi Bishop
10 copied on Brenda Shepard's e-mail of March 2, 2016?

11 A. She was the DBS assigned to the file, the
12 number that's cited here: 11021715.

13 So she was the assigned DBS, so this is a
14 decision that is being rendered by the appeals
15 organization. So she's just being kept in the loop.

16 Q. And why did you ask to be -- strike that.

17 Why did you ask Ms. Wetton to keep you
18 posted on the status of Dr. Biliack's claim?

19 A. It was just something I did as a matter of
20 routine. If I received information from the appeals
21 organization, then I wanted to be kept apprised of
22 what happened after that. Again, it was a way to
23 help evaluate how a Director was doing and their
24 team and look at the quality of their decisions.

1 Q. During your 10-year experience as AVP of
2 Claims, did you ever feel that any of your Directors
3 or DBSs were not giving significant weight to the
4 attending physician's opinions?

5 A. Not that I can recall, no. I think it was
6 a pretty widely accepted practice that people knew
7 about.

8 Q. During your 10-year experience as AVP of
9 Claims for Unum Group, did you ever see a claim
10 where you felt -- strike that.

11 During your 10-year experience as AVP of
12 Claims for Unum Group, did you ever feel that any
13 Director or any particular DBS was ignoring evidence
14 in support of an insured's disability claim?

15 A. I mean, I don't recall any specific
16 situations. I suspect that there might have been a
17 few where I had a different opinion than they did,
18 and we would talk about the claim, but I'm not sure
19 I would have thought they were ignoring it. I might
20 have just thought, you know, maybe they weren't
21 giving the same weight I did to it or I guess it
22 would have been worthy of a discussion. I can't
23 remember any particular cases or even say for sure
24 that that happened, but it seems likely that over

1 10 years, that would have happened occasionally.

2 Q. What would you have done if you felt that
3 any particular Director or a DBS was unfairly handling
4 any claim systematically?

5 A. I certainly would have talked to them
6 about that particular claim or if it were a DBS, I
7 probably would have talked to the Director. I would
8 have looked at other information to either corroborate
9 or not; so, I would have looked at a sample of their
10 claims or asked for help from our Quality Review
11 Department to maybe do kind of an ad hoc review of a
12 wider sample of their claims. So, you know, one
13 example is just that one example. So I would have
14 taken steps to try to identify whether that was a
15 trend or an aberration.

16 Q. Did you share the paid recovery expectation
17 number with OSPs?

18 A. No.

19 Q. Did you share paid recovery expectations
20 with DMOs?

21 A. No.

22 Q. If a small claim is reopened, do you have
23 any less concern than if a large -- bad question --
24 strike that.

1 If a claim that's associated with larger
2 reserve is reopened, do you have any more concerns
3 than if a claim with a smaller amount of reserves is
4 reversed or reopened?

5 A. I'm aware that the financial impact to the
6 company is different between a small reserve and a
7 large reserve, but it didn't impact the -- what I
8 thought of it or the degree of significance I gave
9 it. In fact, we were -- just as we were measured by
10 both the count or number of recoveries as well as
11 the financial impact, we were also measured by both
12 the number of reopens and the financial impact; so,
13 a count of one reopen is significant to me whether
14 it's a small or large reserve.

15 Q. Do you know Mr. Birch?

16 A. Yes.

17 Q. Was he under your supervision as well?

18 A. For a part of my time, yes.

19 Q. For how long?

20 A. It's hard to remember for sure but a
21 couple of years.

22 Q. And did you ever have any concerns about
23 Mr. Birch not -- strike that.

24 Did you ever have any concerns about

1 Mr. Birch affirming denials without conducting
2 adequate review of files?

3 A. No. Conversely, I would say Mr. Birch was
4 known as a very thorough QCC, and, you know, his
5 opinion was widely respected in terms of his expertise
6 at his job.

7 Q. Did you ever work with Dr. Philbin?

8 A. I mean, we worked together in the sense
9 that we were both part of the claim department. I
10 didn't have any, you know, particular dealings with
11 him.

12 I'm sure he reviewed claim files that were
13 in my organization, but I didn't have much contact
14 with him. The contact with the OSPs was primarily
15 between the DBS and Director and them.

16 Q. In this case, Dr. Biliack alleges that
17 Ms. Bishop, with the assistance of Ms. Wetton and
18 Mr. Birch, denied his disability claim intentionally,
19 knowing that he was entitled to benefits, in order
20 to meet company metrics.

21 What is your reaction to that allegation
22 based on your experience with working with Ms. Wetton,
23 Ms. Bishop, and Mr. Birch?

24 MR. DAWSON: Objection. Misstates the

1 allegations of the complaint and lacks foundation
2 for this witness to give his opinion about his
3 reaction to that.

4 Q. Go ahead.

5 A. I guess my reaction is surprise. All of
6 the individuals you mentioned, Ms. Bishop,
7 Ms. Wetton, and Mr. Birch have a track record of
8 good performance, of handling claims appropriately,
9 ethically. I have no prior experience with or
10 reason to believe that they would deny a claim if it
11 wasn't appropriate, and, in fact, Ms. Bishop wouldn't
12 even know anything about the size of the claim or
13 the reserve or anything that would have influenced
14 her decision.

15 Q. You testified earlier today that sometimes
16 you would meet with Ms. Wetton one -- in one-on-one
17 meetings --

18 A. Yes.

19 Q. -- and convey to her what a paid recovery
20 expectation was for a given month. Do you recall
21 that testimony?

22 A. Yes.

23 Q. Did you have an office or a cubicle?

24 A. It was called an office, but it didn't

1 have a door.

2 Q. And what about Ms. Wetton, did she have an
3 office with a door?

4 A. Same as I had.

5 Q. And did you sometimes meet in your office,
6 that didn't have a door or Ms. Wetton's office that
7 didn't have a door?

8 A. Sometimes, depending on the nature of the
9 conversation.

10 Q. And if you met with Ms. Wetton behind
11 closed doors, why was that?

12 A. You know, as I said, periodically, probably
13 on average every other week, I would meet with each
14 Director and QCC who reported to me, and we called
15 them one-on-one meetings, and it was an opportunity
16 to talk about whatever was going on in their
17 particular team.

18 So kind of similar to my staff meetings,
19 you know, it could be a personnel matter. It could
20 be something related to a DBS's performance or it
21 could be a variety of things that would be -- that
22 would fall into being a manager of a team, and so
23 whether it was a discussion about paid recoveries or
24 about the performance of a DBS or really about any

1 personal and confidential information, which would
2 also extend to claimant information, it was
3 appropriate to have those conversations in a room
4 with a door, so that people, you know, outside of
5 the room didn't hear what was going on and didn't
6 hear information about -- you know, it wouldn't be
7 appropriate for a DBS to hear my discussion with
8 their Director about their performance or one of
9 their peers' performances, for example.

10 Q. Did you ever feel -- strike that.

11 Did you ever -- strike that.

12 Based on your 10-year experience in claims,
13 as AVP of Claims, did paid recovery expectations
14 play a role in any particular claim?

15 A. No, I don't think they did.

16 Q. Are you an actuary?

17 A. No.

18 Q. Do you know how actuaries actually
19 calculate their forecast or paid recoveries?

20 MR. DAWSON: Object to the form of the
21 question.

22 A. Not in any detail, no.

23 Q. And you never worked as an actuary for
24 Unum Group?

1 A. Correct.

2 Q. Did you ever work with or for Mary Fuller?

3 A. No.

4 Q. How did you feel -- strike that.

5 Were you upset that Unum Group terminated
6 you from your employment?

7 A. Yes, somewhat.

8 Q. Were you disappointed?

9 A. Yes.

10 Q. Were you unhappy the way Unum Group
11 handled your employment?

12 A. Yes.

13 Q. Would you be -- strike that.

14 Nothing further.

15 REDIRECT EXAMINATION

16 BY MR. DAWSON:

17 Q. Quick follow-up. In terms of it being --

18 MS. ROSENTHAL: He wants to take a ten.

19 MR. DAWSON: Oh, I'm sorry. Quick break.

20 THE VIDEOGRAPHER: We are off the record
21 at 6:17 p.m.

22 (Short break taken.)

23 THE VIDEOGRAPHER: We are on the record at
24 6:27 p.m.

REDIRECT EXAMINATION

BY MR. DAWSON:

Q. Mr. Peter, I'll try to jump through these pretty quickly.

You were being asked about the fact that it was the plaintiff that subpoenaed you here to testify and that Unum had not done that.

Unum's counsel is here as your lawyer; right?

A. Yes.

Q. And Unum or Unum's lawyer could talk to you any time they wanted if they wanted to; correct?

MS. ZHORDANIA: Vague as to time.

A. I think so, yeah.

Q. Yeah. Well, in the last five months, they could have talked to you if they wanted?

A. I guess so.

Q. All right. Under the separation agreement, we could not have talked to you without subpoenaing you; correct?

A. That's my understanding.

Q. Okay. Paying under a reservation of rights to affect the paid recovery performance metrics, I believe you testified would not have any

1 detrimental impact on the insured; correct?

2 A. Yes.

3 Q. In fact, I think you said you could argue
4 the insured benefitted from that practice, if I
5 understand that correctly?

6 A. Yes.

7 Q. Would you agree that most people buy
8 insurance, disability insurance for peace of mind,
9 security?

10 MS. ZHORDANIA: Calls for speculation.
11 Foundation.

12 A. I think that's a common reason why people
13 buy it.

14 Q. Right. I mean it's that odd product that
15 we buy that we hope we don't really have to use
16 typically; correct?

17 A. Yes. Yes, a lot of insurance is like that
18 in a way, but.

19 Q. Right. And would you agree that when
20 people do suffer loss, and let's say they're
21 disabled, and they are not earning income, at that
22 point in their lives, they're often -- they're often
23 vulnerable. Has your experience suggested that to
24 you being in the disability insurance industry all

1 this time?

2 A. You know, I'm not sure I know the state of
3 mind of everyone, but I think to the extent that
4 someone is unable to work due to an illness or
5 injury, that that would make them feel vulnerable at
6 times. Sure.

7 Q. It certainly can create significant
8 disruptions in a person's life, do you agree?

9 A. Yes.

10 Q. To have such a person's claim accepted
11 even under reservation of rights, wouldn't it be
12 reasonable to expect an insured to make life
13 decisions and reliance on receiving benefits?

14 MS. ZHORDANIA: Foundation.

15 A. Well, I think the purpose of doing it
16 under reservation of rights and the explanation to
17 the claimant about what that means would indicate
18 that it's an interim decision. What a claimant
19 chooses to do with that about making long-term
20 decisions is, I guess, up to them.

21 Q. Well, you yourself had explained that
22 claims should be paid under reservation of rights
23 only when it is believed, based upon the existing
24 information, that the claim will be accepted without

1 a reservation of rights. Did I understand that
2 correctly?

3 A. I think what I said is that that seems
4 more likely than not --

5 Q. Okay.

6 A. -- so it may not be -- it's definitely
7 not a certainty, because we don't have all the
8 information, but, you know, it's more probable than
9 not that it would be approved.

10 Q. Well, to accept a claim under reservation
11 of rights with the sole intent to then shut that
12 claim down to meet performance recovery or paid
13 recovery metrics is disregarding any emotional
14 impact that may have on the insured, would you agree
15 with that?

16 A. If that were done, and I think what I said
17 is --

18 Q. If that were done?

19 A. -- it would be inappropriate to do that --

20 Q. Right.

21 A. -- but if that were done, then I could see
22 where it would adversely impact the claimant.

23 Q. Questions about Unum tracking paid
24 recoveries and whether there's anything wrong with

1 that, and it is true, isn't it, that Unum doesn't
2 just track paid recoveries, but Unum provided AVPs
3 and Directors with a monthly number of paid
4 recoveries that they expect them to achieve?

5 A. I think we've talked a lot about that --

6 Q. Right.

7 A. -- in terms of the information that I was
8 given by Ms. Griffin and, in turn, gave to my
9 Directors.

10 Q. Right. And we discussed how there's a lot
11 of ongoing follow-up to encourage the meeting of the
12 paid recovery numbers; correct?

13 A. Well, we talked about follow-up. I don't
14 know how much a lot is or isn't, but we talked about
15 there being follow-up.

16 Q. Unum Group, you said, doesn't issue
17 insurance policies; correct?

18 A. I think I said my understanding was that
19 Unum Group as an entity is a holding company or
20 parent company. They're not officially an insurance
21 company. So I think the insurance policies have a
22 different label on them.

23 Q. That's what I understood you to say, yeah.

24 A. Okay.

1 Q. But Unum Group pays the salaries of the
2 claims employees; correct?

3 A. I think of all employees.

4 Q. Of all employees.

5 Unum Group is responsible for the incentive
6 compensation plan; correct?

7 A. Yes.

8 Q. Unum Group is responsible for the long-term
9 incentive plan, if I'm remembering the title of that
10 correctly?

11 A. I think any type of compensation would
12 fall under the parent company Unum Group.

13 Q. Unum Group does the training?

14 A. Again, the company is Unum Group. The
15 insuring entities as policies as filed with the
16 states are just that --

17 Q. Right.

18 A. -- they're not -- you know, they're not
19 the parent company.

20 Q. The claims are being handled under claim
21 guidelines, promulgated by Unum Group; correct?

22 A. Yes.

23 Q. You testified, I believe, that you never
24 suspected a Director of improperly having denied a

1 claim. First of all, do I have that correct?

2 A. Yes.

3 Q. During the 10 years that you were an AVP,
4 were there any lawsuits filed by insureds whose
5 claims were denied by your team?

6 A. I'm sure there were, yes.

7 Q. Lawsuits, alleging bad faith conduct?

8 A. Probably, but I don't -- I can't recall
9 the -- you know, any specific names or anything.

10 Q. Did you testify in any lawsuits against
11 the company when you were an AVP?

12 A. I think the only time I testified was in
13 November of 2016 after my employment had been
14 terminated.

15 Q. That's the only time you've been deposed?

16 MS. ZHORDANIA: As AVP?

17 A. As AVP of Claims.

18 Q. Okay. Let me ask a better question.

19 Are you saying during your tenure as AVP,
20 you were not deposed in connection with your work?

21 A. I think there was one instance in the
22 10 years where I was deposed shortly after I
23 transitioned from underwriting to claims, but the
24 nature of my involvement, and, therefore, testimony

1 was underwriting related, not claims related.

2 Q. All right. Well, going back, you said
3 you -- I forget the word you used. You think, you
4 believed that there were lawsuits filed by insureds
5 whose claims were denied by your team?

6 A. I think that's likely.

7 Q. All right. What happened to those?

8 A. I don't know.

9 Q. Do you know if they went to trial?

10 A. I am sure some did. I recall people on
11 my team testifying. I don't recall if they were
12 testifying in depositions or trial, but --

13 Q. What have juries decided about how the
14 claims were handled?

15 A. I don't know.

16 Q. What have Courts decided about how claims
17 were handled on your team?

18 A. I don't know.

19 Q. If Unum is sued for insurance bad faith
20 and found by a jury to have acted in bad faith and
21 affirmed by a Court of Appeals to have acted in bad
22 faith, is that knowledge shared with the claims
23 operation?

24 MS. ZHORDANIA: Calls for speculation.

1 A. Not to my recollection, no.

2 Q. Is this not information that you would
3 want to know if the bad faith -- there's a bad faith
4 finding by a jury?

5 A. I think I would want to know if it were a
6 decision made by my team.

7 Q. It could be instructional, wouldn't you
8 agree?

9 A. It could be. And perhaps we were instructed
10 indirectly or maybe there was a change to a policy
11 or practice as a result of a court finding that was
12 presented as a change without necessarily being
13 framed in the sense of a result of a court decision.

14 Q. All right. But you're speculating about
15 that, I take it?

16 A. Yes.

17 Q. Concerning your supervision and evaluation
18 of Ms. Wetton, was she a good Director in terms of
19 measuring her operational metrics compared to plan?

20 A. My recollection is that she typically met
21 the expectations.

22 Q. And was she fairly consistent in achieving
23 paid recoveries?

24 A. To the best of my knowledge, yes, or

1 recollection.

2 Q. All right. Ms. Wetton was part of the
3 claims operation, I think, is it 2002?

4 MR. SANDER DAWSON: Two thousand --

5 MS. ROSENTHAL: Before --

6 MR. SANDER DAWSON: Seventeen years.
7 2001.

8 MR. DAWSON: All right.

9 MS. ZHORDANIA: What?

10 MR. DAWSON: He said for 17 years. He
11 didn't have the year.

12 MS. ZHORDANIA: Oh.

13 BY MR. DAWSON:

14 Q. Ms. Wetton was part of the claim operation
15 before you came over to the benefits side; correct?

16 A. That's my understanding.

17 Q. And she was part of the claim operation
18 before the Market Conduct Examination?

19 A. Well, if the information is accurate that
20 she began in 2001, then, yes, because the RSA was in
21 2004 or five.

22 Q. I think it was one or two, but anyway.

23 MR. SANDER DAWSON: 2001, yeah.

24 Q. 2001.

1 All right. And, therefore, Ms. Wetton was
2 part of the claims operation at the time of the
3 findings of improper claims practices by the
4 Multistate Market Conduct Examination, wouldn't that
5 follow?

6 A. Yes.

7 Q. Do you know what role Ms. Wetton may or
8 may not have had in claims where unfair practices
9 were found by the Market Conduct Examination?

10 A. I do not.

11

12

13

14

15 Now I'm not going to ask if you know that
16 specifically, but were you generally aware that she
17 was having her reopen rates exceed what the plan
18 number was --

19 MS. ZHORDANIA: Foundation.

20 Q. -- in that -- to a large degree during
21 that period?

22 MS. ZHORDANIA: Lacks foundation.

23 A. I don't recall that being the case one way
24 or another.

1 Q. Okay. If that was the case, and I think
2 you touched on this before in your testimony, having
3 that large a number of reopens would suggest that
4 claims are being improperly denied, wouldn't you
5 agree?

6 A. Not necessarily.

7 MS. ZHORDANIA: Lacks foundation.

8 Q. It could suggest that, wouldn't you agree?

9 A. It could.

10 Q. All right. It would cause or it should
11 cause someone in a supervisory position of Ms. Wetton
12 to want to look into why she was having so many
13 reopened claims. Would you agree with that?

14 A. I think so.

15 Q. You testified about systems being in place
16 to make sure that claims are handled fairly. You
17 mentioned the Director and the audits, for example;
18 correct?

19 A. Yes.

20 Q. There were Directors in place when the
21 various Departments of Insurance fined Unum for
22 unfair interpretation of surveillance; correct?

23 MS. ZHORDANIA: Objection. Lacks proper
24 foundation. Calls for speculation.

1 A. I mean -- I don't know what the titles
2 were before I joined the organization; so, I don't
3 know if they were Directors or --

4 Q. Supervisors?

5 A. -- or something else.

6 Q. Or claim handlers?

7 A. There were some people who managed DBSs.
8 What they were called, I don't know.

9 Q. My point is these systems that you're
10 testifying to that are overseeing whether claims are
11 being handled, it is a fact that these systems by
12 and large were in place at the time of the Market
13 Conduct Examination. Isn't that true?

14 A. I don't know which ones were in place at
15 the time of the Market Conduct Examination; so, I
16 can't compare that to afterwards. My understanding
17 is that some additional practices or safeguards were
18 put into place as a result of the Market Conduct
19 Exam.

20 Q. Well, the additional safeguard that was
21 put into place was that Unum was required to
22 institute the position of the QCC. Are you aware of
23 that?

24 A. I'm aware that it was put into place

1 around that time. I'm not necessarily aware that it
2 was a direct result or not of the RSA.

3 Q. Were you aware that after Unum instituted
4 the QCC position, they made them independent from
5 the claim department? Did you know that?

6 MS. ZHORDANIA: Vague.

7 A. No.

8 Q. QCCs did not report to an AVP of Claims
9 originally. Did you not know that?

10 A. I guess I didn't -- I guess when you say
11 independent of the Claims Department, so regardless
12 of whether they reported to an AVP of Claims or not,
13 I thought that they were still part of the Claims
14 Department.

15 Q. No, it may have been sloppy language. Did
16 you know that QCCs were within their own unit
17 reporting to a supervisor of QCCs, not to a
18 supervisor of claims? Were you aware of that?

19 MS. ZHORDANIA: Foundation.

20 A. I was aware that they were in one unit as
21 opposed to being spread out, and that they reported
22 to, for lack of a more precise term, a supervisor of
23 QCCs, but I would think that that person was still
24 part of the claims organization.

1 Q. And the change was made so Mr. Birch, for
2 example, was reporting to an AVP such as yourself;
3 correct?

4 A. Was that change made? Is that what you're
5 asking?

6 Q. Yeah. Change was made, and, for example,
7 Mr. Birch then was reporting to an AVP such as
8 yourself; correct?

9 A. Yes.

10 Q. And the AVPs we've discussed have
11 operational metrics that they're expected to comply
12 with; correct?

13 A. Yes.

14 Q. In terms of whether you would have had any
15 awareness of Dr. Biliack's claim following up about
16 the change in status field, we know from at least
17 from one e-mail where you said "Keep me posted," you
18 had some awareness of Dr. Biliack's claim; correct?

19 A. In conjunction with the appeal, yes.

20 Q. Speaking of appeals, do you believe that
21 it's fair to require an appeal to take place without
22 giving the insured the opportunity to see the whole
23 record before he or she has to do an appeal, so they
24 know what the actual evidence was that the adverse

1 decision was based upon?

2 A. I mean, my recollection is that any time
3 we made a decision to deny a claim, we explained to
4 the insured, sometimes by phone, and I believe
5 always in writing what the basis for the company's
6 decision was.

7 Q. Do you think it would be fair for the
8 insured to be able to have the documents that the
9 company's relying upon for its adverse decision?

10 A. My recollection is that the insured did
11 have access to a copy of the documents in their
12 claim file.

13 Q. That they would have an access to the
14 documents in their claims file; is that what you
15 said?

16 A. Yes, my recollection is that any insured
17 would have access to the documents in their claim
18 file or a copy of their claim file upon request.

19 Q. All right. And, thereby, they would have
20 access to the base documents that the decision was
21 based upon; correct?

22 A. I think so, yes.

23 Q. And you agree that would be fair?

24 A. Yes.

1 Q. All right. In terms of your being asked
2 what your reaction was to the allegations of the bad
3 faith practices here, it is a fact that the
4 allegations of improper claims practices made in
5 this lawsuit involves a claim that was handled by
6 your AVP team; correct?

7 A. That's my understanding.

8 Q. Sorry. I'm not sure where I am here.

9 Claim file documentation. You're aware
10 that the claim files should be sufficiently detailed
11 to allow, say, a regulator or auditor to recreate
12 each important decision on the claim and the basis
13 for it --

14 MS. ZHORDANIA: Object to the extent it
15 calls for a legal conclusion or expert opinion.

16 Q. -- correct?

17 A. I was not aware of that as you specifically
18 outlined, no.

19 Q. Well, we were talking about Market Conduct
20 Examinations. The Multistate Market Conduct
21 Examination is not the only Market Conduct
22 Examination that has taken place of Unum claims to
23 your knowledge?

24 MS. ZHORDANIA: Can you specify time.

1 MR. DAWSON: No.

2 MS. ZHORDANIA: Market -- I mean I
3 think -- which one are you referring to?

4 MR. DAWSON: I'll take that as an
5 objection.

6 MS. ZHORDANIA: Vague. Objection. Vague.

7 A. My understanding is that a component of
8 the -- what I believe would be called the initial
9 Market Conduct Examinations in 2004 and 2005 -- I
10 don't know that they were the first ones, but that's
11 what I understand them to be.

12 Q. All right.

13 A. And so my understanding is that in
14 subsequent years there have been occasional routine
15 Market Conduct Exams that states have the right to
16 conduct of any insurance company authorized to issue
17 policies in their state.

18 Q. All right. And when State Departments of
19 Insurance exercise their right to conduct Market
20 Conduct Examinations, the insurance company is
21 expected to maintain claim files, so those auditors
22 from the Departments of Insurance can see how claims
23 have been handled. Are you aware of that?

24 MS. ZHORDANIA: Object to the extent it

1 calls for expert opinion or a legal conclusion.

2 A. I'm aware that there were Market Conduct
3 Examinations that involved review of claim files; so,
4 it makes sense that the company would be required to
5 provide the claim files to the examiners.

6 Q. Do you have familiarity with the NAIC
7 model guidelines?

8 A. I'm aware that they exist, but that's
9 about it.

10 Q. Would you agree that an insurance company's
11 obligated to explain the basis for an adverse claims
12 decision?

13 A. Yes.

14 Q. Do you know if the -- we talked a lot
15 about the historical assumptions. Do you know if
16 the historical assumptions that you've been testifying
17 about are based, in part, on claim data that was
18 happening prior to the Multistate Market Conduct
19 Examination.

20 MS. ZHORDANIA: Foundation.

21 A. I don't know. You had previously asked me
22 how far back or how many years the data represented,
23 and I said I didn't know.

24 MR. DAWSON: That's all.

1 MS. ZHORDANIA: All right. I have a few.

2 RECROSS-EXAMINATION

3 BY MS. ZHORDANIA:

4 Q. I don't know if I asked you this, and if I
5 did, I apologize. Did you ever share paid recovery
6 expectations with QCCs?

7 A. No, not that I recall.

8 Q. Did you ever share paid recovery expectation
9 with Mr. Birch?

10 A. Again, not that I recall.

11 Q. And did I understand your testimony
12 correctly that during your 10-year employment
13 history as AVP of Claims for Unum Group, you never
14 had to testify or be deposed in any case alleging
15 bad faith denial of benefits?

16 A. What I said is that to the best of my
17 recollection, during the 10 years that I was in
18 claims, I was deposed one time, but the substance of
19 the deposition was related to my involvement when I
20 was in underwriting, and I believe it was
21 specifically related to a contestable claim.

22 So there may have been aspects to that
23 case that involved bad faith but not as far as I was
24 involved.

1 Q. Okay. So if I understand correctly, based
2 on your recollection, you were never deposed or
3 testified in a case where your team's handling of a
4 disability claim was at issue?

5 MR. DAWSON: Objection. That misstates
6 his testimony and it's leading.

7 Q. Go ahead.

8 Let me ask you --

9 A. Sure.

10 Q. -- do you recall ever being deposed in a
11 case other than this case where the claims handling
12 of any of your Directors or DBSs were involved?

13 MR. DAWSON: I withdraw my objection. I
14 misunderstood your question.

15 MS. ZHORDANIA: Okay.

16 A. Only once which was after my employment
17 ended in October of 2016. So one time after that, I
18 think it was November of 2016, but not while I was
19 employed.

20 Q. Was either Ms. Wetton or Jodi Bishop
21 involved in that case, to your knowledge?

22 A. I don't think so, no.

23 Q. Ms. Bishop testified in this case that she
24 had never testified or been involved in any case

1 where her handling of the claim was at issue. Do
2 you have a different understanding from that?

3 MR. DAWSON: Objection. Lack of
4 foundation.

5 A. I have no knowledge one way or another.

6 Q. Do you know whether there have been any
7 bad faith jury findings against Ms. Wetton or
8 Ms. Bishop?

9 MR. DAWSON: Whoa. Objection. Lack of
10 foundation. A finding would not be against an
11 individual --

12 Q. Do you know --

13 MR. DAWSON: -- it would be against the
14 company.

15 MS. ZHORDANIA: Thank you. I'll rephrase.
16 BY MS. ZHORDANIA:

17 Q. Do you know whether there have been any
18 jury, any bad faith findings by a court or a jury, a
19 case that was handled by Ms. Bishop or Ms. Wetton?

20 A. I don't know.

21 Q. Do you -- earlier today you testified that
22 you don't know what Unum's policies with respect to
23 providing surveillance or you don't recall. Do you
24 recall that testimony?

1 A. Providing copies of surveillance to
2 insureds?

3 Q. Correct.

4 A. I said I don't recall, yeah.

5 Q. And so typically when an insured requested
6 a copy of the claim file, what is your understanding?
7 What did Unum do?

8 MR. DAWSON: Objection. Asked and
9 answered.

10 A. If an insured requested a copy of their
11 claim file, Unum would take the electronic claim
12 file and burn it, if that's the right term, to a CD,
13 and send that to the insured.

14 Q. And do you know what Unum's practice was
15 with respect to if the claim file contained
16 surveillance videos or reports?

17 MR. DAWSON: Asked and answered.

18 A. I don't recall.

19 Q. Okay. That's what I wanted to make clear.

20 MS. ZHORDANIA: That's it.

21 So we'll -- you'll forward me the original
22 transcripts, so we'll get it to the witness for
23 review or signature -- for review and signature.
24 30 days to review.

1 MR. DAWSON: Okay.

2 THE VIDEOGRAPHER: We are off the record
3 at 6:56 p.m.

4
5 (Deposition concluded at 6:56 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, Julie Thomson Riley, RDR, CRR, do certify
3 that the deposition of Paul Peter, in the matter of
4 Mark Biliack, M.D., an individual vs. The Paul
5 Revere Life Insurance Company, a Massachusetts
6 Corporation; Unum Group, a Delaware Corporation;
7 Austin Jerome Philbin, M.D., an individual; Suzanne
8 Benson, M.D., an individual, on December 7, 2018,
9 was stenographically recorded by me; that the
10 witness provided satisfactory evidence of
11 identification, as prescribed by Executive Order 455
12 (03-13), issued by the Governor of the Commonwealth
13 of Massachusetts, before being sworn by me, a Notary
14 Public in and for the Commonwealth of Massachusetts;
15 that the transcript produced by me is a true and
16 accurate record of the proceedings to the best of my
17 ability; that I am neither counsel for, related to,
18 nor employed by any of the parties to the above
19 action; and further that I am not a relative or
20 employee of any attorney or counsel employed by the
21 parties thereto, nor financially or otherwise
22 interested in the outcome of the action.

23 December 12, 2018

24 _____
Julie Thomson Riley, RDR, CRR

1 WITNESS: Paul Peter
2 DATE: December 7, 2018
3 CASE: Mark Biliack, M.D., an individual vs.
4 The Paul Revere Life Insurance Company, a
5 Massachusetts Corporation; Unum Group, a
6 Delaware Corporation; Austin Jerome Philbin,
7 M.D., an individual; Suzanne Benson, M.D.,
8 an individual
9

10 DISTRIBUTION TO COUNSEL The original signature
11 page/errata sheet was sent to Theona Zhordania,
12 Esquire, to obtain signature from the deponent.
13 When signed, please send original to Steven Dawson,
14 Esquire.
15

16 WITNESS INSTRUCTIONS After reading the transcript
17 of your deposition, please note any change or
18 correction and the reason for it on the errata
19 sheet. DO NOT make any notations on the transcript
20 itself. Use additional sheets if necessary.
21

22 SIGN AND DATE THE ERRATA SHEET before a notary
23 public and return it, along with the transcript, to
24 your counsel.

UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA

Mark Biliack, M.D., an individual,
Plaintiff
v.

The Paul Revere Life Insurance Company, a
Massachusetts Corporation; Unum Group, a Delaware
Corporation; Austin Jerome Philbin, M.D., an
individual; Suzanne Benson, M.D., an individual,
Defendants

I, Paul Peter, do hereby certify, under the
pains and penalties of perjury, that the foregoing
testimony is true and accurate, to the best of my
knowledge and belief, with the addition of the
following changes/corrections:

Page	Line	Change/Correction
11		
12		
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WITNESS MY HAND, this day of , 2018.

Paul Peter

cc: Steven Dawson, Esquire

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